The following has special meaning:
green underline denotes added text
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H.B. 294 Enrolled

PANDEMIC EMERGENCY POWERS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Derrin R. Owens

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Scott H. Chew	Candice B. Pierucci	
Matthew H. Gwynn	Adam Robertson	

LONG TITLE

General Description:

This bill provides for the termination of emergency powers and certain public health orders related to COVID-19 upon reaching certain thresholds of positivity rates, vaccination, and other criteria.

Highlighted Provisions:

This bill:

• provides for the termination of certain emergency powers and public health orders related to COVID-19 upon reaching certain thresholds of positivity rates, case rates, intensive care facility capacities, and vaccine doses;

• allows health and safety measures in a K-12 school under certain circumstances;

• allows a local health department, with approval from the county legislative body, to take certain health and safety measures;

• allows a public health emergency declared by the Department of Health or a local health department to remain in effect;

• allows the governor and the Department of Health to issue a public health order related to the distribution of COVID-19 vaccines;

• provides an automatic repeal date; and

• makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-226, as last amended by Laws of Utah 2020, Chapters 154, 187, 215, and 354

63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

ENACTS:

26-6-33, Utah Code Annotated 1953

26A-1-130, Utah Code Annotated 1953

53-2a-218, Utah Code Annotated 1953

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

Section 1. Section **26-6-33** is enacted to read:

26-6-33. Termination of public health emergency powers pertaining to COVID-19.

(1) As used in this section:

(a) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(2) Except as provided in Subsections (3), (4), and (5), any public health order in effect pertaining to any response to COVID-19 and the COVID-19 emergency issued pursuant to a public health emergency declared by the Department of Health or a local health department is terminated on the day on which the following thresholds are met:

(a) the state's 14-day case rate is less than 191 per 100,000 people;

(b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and

(c) the Department of Health provides notice that 1,633,000 prime doses of a COVID-19 vaccine have been allocated to the state.

(3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of Health issued pursuant to a public health emergency declared by the Department of Health pertaining to response to COVID-19 and the COVID-19 emergency that pertains to public health safety measures in a K-12 school may remain in place.

(b) A public health order or health and safety requirement described in Subsection (3)(a) shall be terminated no later than July 1, 2021.

(4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by the Department of Health pertaining to a statewide mask requirement in response to the COVID-19 emergency is terminated on April 10, 2021.

(b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health order pertaining to the wearing of a mask issued by the Department of Health may remain in effect if:

(i) the mask requirement pertains only to a gathering of 50 or more people; and

(ii) an individual at the gathering of 50 or more people is unable to physically distance at least six feet from another individual who is not a member of the individual's party.

(c) Subject to Subsection (4)(d), a local health department, with approval from the relevant county legislative body, may issue a public health order requiring the wearing of a mask.

(d) A public health order described in Subsection (4)(b) or (c) is terminated on the date the thresholds described in Subsection (2) are met.

(5) Notwithstanding Subsections (2), (3), or (4):

(a) a declaration of a public health emergency issued by the Department of Health in response to COVID-19 or the COVID-19 emergency may remain in effect; and

(b) the governor and the Department of Health may issue a public health order related to the distribution of COVID-19 vaccines.

Section 2. Section **26A-1-130** is enacted to read:

26A-1-130. Termination of local public health emergency powers pertaining to COVID-19.

(1) As used in this section:

(a) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(2) Except as provided in Subsections (3), (4), and (5), any public health order in effect pertaining to any response to COVID-19 and the COVID-19 emergency issued pursuant to a public health emergency declared by the Department of Health or a local health department is terminated on the day on which the following thresholds are met:

(a) the state's 14-day case rate is less than 191 per 100,000 people;

(b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and

(c) the Department of Health provides notice that 1,633,000 prime doses of a COVID-19 vaccine have been allocated to the state.

(3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of Health or a local health department issued pursuant to a public health emergency declared by the Department of Health or a local health department pertaining to response to COVID-19 and the COVID-19 emergency that pertains to public health safety measures in a K-12 school may remain in place.

(b) A public health order or health and safety requirement described in Subsection (3)(a) shall be terminated no later than July 1, 2021.

(4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by the Department of Health or a local health department pertaining to a statewide mask requirement in response to the COVID-19 emergency is terminated on April 10, 2021.

(b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health order pertaining to the wearing of a mask issued by the Department of Health or a local health department may remain in effect if:

(i) the mask requirement pertains only to a gathering of 50 or more people; and

(ii) an individual at the gathering of 50 or more people is unable to physically distance at least six feet from another individual who is not a member of the individual's party.

(c) Subject to Subsection (4)(d), a local health department, with approval from the relevant county legislative body, may issue a public health order requiring the wearing of a mask.

(d) A public health order described in Subsection (4)(b) or (c) is terminated on the date the thresholds described in Subsection (2) are met.

(5) Notwithstanding Subsections (2), (3), or (4):

(a) a declaration of a public health emergency issued by the Department of Health or a local health department in response to COVID-19 or the COVID-19 emergency may remain in effect; and

(b) the governor, the Department of Health, or a local health department may issue a public health order related to the distribution of COVID-19 vaccines.

Section 3. Section **53-2a-218** is enacted to read:

53-2a-218. Termination of emergency powers pertaining to COVID-19.

(1) As used in this section:

(a) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(2) Except as provided in Subsections (3), (4), and (5), a state of emergency and any executive order issued pursuant to this part pertaining to any response to COVID-19 and the COVID-19 emergency is terminated on the day on which the following thresholds are met:

(a) the state's 14-day case rate is less than 191 per 100,000 people;

(b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and

(c) the Department of Health provides notice that 1,633,000 prime doses of a COVID-19 vaccine have been allocated to the state.

(3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of Health or a local health department issued pursuant to a public health emergency declared by the Department of Health or a local health department pertaining to response to COVID-19 and the COVID-19 emergency that pertains to public health safety measures in a K-12 school may remain in place.

(b) A public health order or health and safety requirement described in Subsection (3)(a) shall be terminated no later than July 1, 2021.

(4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by the Department of Health or a local health department pertaining to a statewide mask requirement in response to the COVID-19 emergency is terminated on April 10, 2021.

(b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health order pertaining to the wearing of a mask issued by the Department of Health or a local health department may remain in effect if:

(i) the mask requirement pertains only to a gathering of 50 or more people; and

(ii) an individual at the gathering of 50 or more people is unable to physically distance at least six feet from another individual who is not a member of the individual's party.

(c) Subject to Subsection (4)(d), a local health department, with approval from the relevant county legislative body, may issue a public health order requiring the wearing of a mask.

(d) A public health order described in Subsection (4)(b) or (c) is terminated on the date the thresholds described in Subsection (2) are met.

(5) Notwithstanding Subsections (2), (3), or (4):

(a) a declaration of a public health emergency issued by the Department of Health or a local health department in response to COVID-19 or the COVID-19 emergency may remain in effect; and

(b) the governor, the Department of Health, or a local health department may issue a public health order related to the distribution of COVID-19 vaccines.

Section 4. Section **63I-2-226** is amended to read:

63I-2-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26-6-33, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

~~(2)~~ (3) Subsection 26-7-8(3) is repealed January 1, 2027.

~~(3)~~ (4) Section 26-8a-107 is repealed July 1, 2024.

~~(4)~~ (5) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

~~(5)~~ (6) Section 26-8a-211 is repealed July 1, 2023.

~~(6)~~ (7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

~~(7)~~ (8) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

~~(8)~~ (9) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

~~(9)~~ (10) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

~~(10)~~ (11) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

~~(11)~~ (12) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

~~(12)~~ (13) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

~~(13)~~ (14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

~~(14)~~ (15) Subsection 26-55-107(8) is repealed January 1, 2021.

~~(15)~~ (16) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

~~(16)~~ (17) Subsection 26-61-202(5) is repealed January 1, 2022.

(18) Section 26A-1-130, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

Section 5. Section **63I-2-253** is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53-2a-218, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

~~(2)~~ (3) Section 53B-2a-103 is repealed July 1, 2021.

~~(3)~~ (4) Section 53B-2a-104 is repealed July 1, 2021.

~~(4)~~ (5) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~(5)~~ (6) Section 53B-6-105.7 is repealed July 1, 2024.

~~(6)~~ (7) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

~~(7)~~ (8) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

~~(8)~~ (9) Section 53B-8-114 is repealed July 1, 2024.

~~(9)~~ (10) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

~~(10)~~ (11) Section 53B-10-101 is repealed on July 1, 2027.

~~(11)~~ (12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

~~(12)~~ (13) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

~~(13)~~ (14) Section 53E-3-520 is repealed July 1, 2021.

~~(14)~~ (15) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

~~(15)~~ (16) Section 53E-5-307 is repealed July 1, 2020.

~~(16)~~ (17) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

~~(17)~~ (18) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(18)~~ (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

~~(19)~~ (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(20)~~ (21) Section 53F-4-207 is repealed July 1, 2022.

~~(21)~~ (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(22)~~ (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(23)~~ (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(24)~~ (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

~~(25)~~ (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

~~(26)~~ (27) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 6. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

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