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RECENT UTAH CASES
EXCERPTED FOR LEGISLATIVE INTENT AND HISTORY

The following cases relating to Utah law are not exhaustive on the issue of legislative intent and history. These are a few examples of recent court decisions excerpted for this topic in the state. ***You must review the entire court opinion to determine its applicability to your case.***

ROTHSTEIN V. SNOWBIRD CORP.
175 P.3D 560, UTAH, 2007.
DECEMBER 18, 2007

Extracting public policy from statutes can be no less challenging. Moreover, in most instances, our proper role when confronted with a statute should be restricted to interpreting its meaning and application as revealed through its text. To pluck a principle of public policy from the text of a statute and to ground a decision of this court on that principle is to invite judicial mischief. Like its cousin **legislative history**, public policy is a protean substance that is too often easily shaped to satisfy the preferences of a judge rather than the will of the people or the intentions of the Legislature. We aptly noted the risks of relying on public policy rationales when we stated that " 'the theory of public policy embodies a doctrine of vague and variable quality, and, unless deducible in the given circumstances from constitutional or statutory provisions, should be accepted as a basis for judicial determinations, if at all, only with the utmost circumspection.'" *Berube v. Fashion Centre, Ltd.*, 771 P.2d 1033, 1043 (Utah 1989) (quoting *Patton v. United States*, 281 U.S. 276, 306, 50 S.Ct. 253, 74 L.Ed. 854 (1930)). When, however, the Legislature clearly articulates public policy, and the implications of that public policy are unmistakable, we have the duty to honor those expressions of policy in our rulings. Such is the case here.

EMERGENCY PHYSICIANS INTEGRATED CARE V. SALT LAKE COUNTY
167 P.3D 1080, UTAH, 2007.
SEPTEMBER 07, 2007

We acknowledge the well-settled principle of statutory construction that "when two provisions address the same subject matter and one provision is general while the other is specific, the specific provision controls." *Dairyland Ins. Co. v. State Farm Mut. Auto. Ins. Co.*, 882 P.2d 1143, 1146 (Utah 1994); *accord Lyon v. Burton*, 2000 UT 19, ¶ 17, 5 P.3d 616. By their express terms, however, subsections (1)(k) and (2) govern only services provided by medical facilities, services that are distinct from medical care provided by physicians.

…

20 A facility is defined as "something (as a hospital, machinery, plumbing) ****1085*** that is built, constructed, installed, or established to perform some particular function or to serve or facilitate some particular end." *Webster's Third New International Dictionary* 812-13 (1986). Thus, under

the plain language of the statute, the terms of subsections (1)(k) and (2) apply exclusively to those costs incurred by the entity associated with the physical structures in which the health care needs of the inmates are provided, rather than the costs incurred by individual health care providers. Because subsections (1)(k) and (2) do not address the County's obligation to compensate medical doctors who provide care to inmates, the County's obligation in this regard is controlled by the more general language of subsection (1)(c).

¶ 21 Although we conclude that the statute is clear on its face, thereby rendering examination of **legislative history** unnecessary, it is worth noting that the **legislative history** of Senate Bill 152, which was codified as Utah Code section 17-50-319, is consistent with our conclusion that medical services provided by physicians do not qualify under subsection (1)(k) as "expenses incurred by a *health care facility* " (emphasis added). The phrase "health care provider" was specifically deleted from the bill, according to the bill's statement of intent, "because of the recognition and continued commitment of counties and physicians to work out prisoner reimbursement issues without legislation and because of the considerable difference in Medicaid reimbursement rates for physicians as compared to hospitals." Utah House Journal, 54th Utah Leg., Gen. Sess., at 892-93 (Feb. 27, 2001). The legislature's distinction between health care providers and health care facilities is consistent with the separate services (and consequently, separate billing) that doctors and hospitals provide.

SNOW V. OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL
167 P.3D 1051, UTAH, 2007.
AUGUST 21, 2007

13 Occasionally, the expression of state policy from our legislative branch is not as clear and understandable as they, or we as citizens, might hope. Such is the nature of the legislative process. However, when the policy and the intent of the legislature is unclear with respect to a particular enactment, it is to the judicial branch of state government that we turn for clarification. Usually, a question about the proper use or application of a statute enacted by the legislature is brought to the trial court as a starting point for resolution. This process allows all who may have a legitimate stake in the outcome of the proceeding to thoughtfully aid the court in reaching resolution, and for the issues and questions, should they persist and eventually reach the supreme court, to have been subjected to the careful review and critique of advocates for both sides, a trial judge and possibly a jury of citizens, and in most cases, three of our colleagues on the Utah Court of Appeals. This process, although sometimes lengthy, was calculated by the framers of our form of government to be most likely to produce a correct result.

…

¶ 26 Finally, HB 174 contains a coordinating provision, unlike HB 148. The coordinating clause expresses the intent that "[i]f this HB 174 and HB 148, Education Vouchers, both pass, it is the intent of the Legislature that the amendments to the sections in this bill supersede the amendments" to the corresponding provisions in HB 148. This language could be read to mean that whichever of the bills passes, if not both, will control. It can also be read to mean that if HB 174 passes, it controls over the existing provisions of HB 148. Tellingly, at the time HB 174 was introduced in the legislature, HB 148 had already passed both houses and been signed into law by the governor. Therefore, it is illogical to suggest that the intent was to allow whichever bill became law to control, since HB 148 already was law.

¶ 27 These indications lead us to the conclusion that HB 174 was intended by the legislature to amend HB 148, not supplant it. At the time of passage, HB 174 was not intended to be a stand-alone substitute for HB 148. Although that could have been done by the legislature, it was not done in this instance. [FN3]

FN3. Parties have directed our attention to statements made in the course of debate and enactment of HB 174 that appear to support our conclusion. However, since we find the language of the bill itself sufficient to reach that conclusion, we need not reach the **legislative history**.

"Our objective in interpreting a statute is to effectuate legislative intent, and that intent is most readily ascertainable by looking to the plain language of the statute." [FN8] In doing so, "[w]e read the plain language of the statute as a whole, and interpret its provisions in harmony with other statutes in the same chapter or related chapters." [FN9]

FN7. *See South Jordan City v. Sandy City,* 870 P.2d 273 (Utah 1994).

FN8. *State v. Carreno,* 2006 UT 59, ¶ 11, 144 P.3d 1152.

FN9. *Bd. of Educ. v. Sandy City Corp.,* 2004 UT 37, ¶ 9, 94 P.3d 234 (internal quotation marks omitted).

…

68 The disconnection statute's definition of peninsula basically consists of a two-part test for determining whether a disconnection creates a prohibited peninsula. To apply this test, we must first determine the "boundary distance" around the "unincorporated area" and whether more than fifty percent of that boundary distance is surrounded by incorporated area. [FN59] Second, if more than fifty percent of the boundary distance is surrounded by incorporated area, we must draw a line across the unincorporated area from one incorporated area to another incorporated area on the opposite side; if the length of this line is less than twenty-five percent of the total boundary distance of the unincorporated area, then a prohibited peninsula has been created.[FN60] We hold that this definition of peninsula is ambiguous with respect to both parts of the statutory test.

FN59. Utah Code Ann. § 10-1-104(6) (2003).

FN60. *Id.; see id.* § 10-2-502.7(3)(c)(iii).

…

69 The term "unincorporated area" as used in this statute is ambiguous in that it is susceptible to two interpretations. This is illustrated by the fact that the district court measured the "boundary distance" of the "unincorporated area" as including not only the Disconnection Area, but also the entire area of unincorporated land that the Disconnection Area would be joining. The court stated that "all contiguous unincorporated areas must be considered in making the calculation." Yet "unincorporated area" may reference solely the area proposed for disconnection, so that we measure only the boundary distance of the Disconnection Area itself, apart from all of the contiguous, unincorporated area that it would be joining. Because the term "unincorporated area" is not defined by the statute and is subject to these different interpretations, we hold that the term "unincorporated area" is ambiguous.

70 "When interpreting an ambiguous statute, we first try to discover the underlying intent of the legislature, guided by the meaning and purpose of the statute as a whole and the **legislative history**." [FN61] According to the district court's interpretation of the term "unincorporated area," and given the fact that there is a vast ocean of "unincorporated area" in most cases, there would necessarily be far less than fifty percent of the unincorporated area's boundary distance surrounded by incorporated territory. Thus, as the district court noted, the statute read in this manner means that there will never be a peninsula that satisfies even the first part of the test; as a result, there will never be a prohibited peninsula. Clearly, the Legislature intended to prohibit certain kinds of peninsulas. Therefore, we must reject the district court's interpretation of "unincorporated area" and give meaning to what constitutes the "boundary distance" to be measured.

…

As a result, the requirement that a line be drawn to an "incorporated area on the opposite side" is arbitrary and renders the second part of the statutory test hopelessly ambiguous.

FN64. Utah Code Ann. § 10-1-104(6).

FN65. *Id.*

FN66. Bluffdale argues the shortest line that can be drawn across the area proposed for disconnection is 3,936 feet long, while the longest such line is 17,146 feet long, which renders both lines less than twenty-five percent of the total boundary distance of 90,399.91 feet. But the district court correctly noted that "[i]n virtually any disconnection, it would be possible to draw a line from incorporated territory to incorporated territory on the opposite side that either does or does not meet the test."

73 When faced with a statutory ambiguity, we seek to ascertain the intent of the Legislature. Here, although the Legislature failed to clearly describe the kinds of peninsulas that are prohibited, it undoubtedly intended to prohibit certain peninsulas. So while it is unclear what the precise contours of prohibited peninsulas would be, the purpose of the Legislature is clear-to guard against the impairment of the provision of services. Thus, we are left to make a practical, common sense assessment of the effect of the peninsula created by the disconnection in this case.

STATE EX REL. Z.C.
165 P.3D 1206, UTAH, 2007.
JULY 17, 2007 (APPROX. 10 PAGES)

6 "When interpreting statutes, our primary goal is to evince the true intent and purpose of the Legislature." *State v. Martinez,* 2002 UT 80, ¶ 8, 52 P.3d 1276 (internal quotation marks omitted). The first step of statutory interpretation is to evaluate the best evidence of legislative intent: "the plain language of the statute itself." *Id.* "When examining the statutory language we assume the legislature used each term advisedly and in accordance with its ordinary meaning." *Id.*

…

10 We accordingly find that Z.C.'s proposed interpretation of the statute is untenable and instead read the statute pursuant to the commonly accepted definition of "person," which includes children. *Black's Law Dictionary* 1162 (7th ed.1999) (defining a person as "[a] human being"); *Webster's New Twentieth Century Dictionary* 1338 (2d ed.1983) (defining a person as "an individual human being ... an individual man, woman, or child"). Thus, under the plain language of the statute, a child is a person and may be adjudicated delinquent for sexually touching another child with the requisite intent.

11 Normally, where the language of a statute is clear and unambiguous, our analysis ends; our duty is to give effect to that plain meaning. However, "[a]n equally well-settled caveat to the plain meaning rule states that a court should not follow the literal language of a statute if its plain meaning works an absurd result." [FN3] *Savage v. Utah Youth Vill.,* 2004 UT 102, ¶ 18, 104 P.3d 1242. The absurd results canon of statutory construction recognizes that although "the plain language interpretation of a statute enjoys a robust presumption in its favor, it is also true that [a legislative body] cannot, in every instance, be counted on to have said what it meant or to have meant what it said." *FBI v. Abramson,* 456 U.S. 615, 638, 102 S.Ct. 2054, 72 L.Ed.2d 376 (1982) (O'Connor, J., dissenting).

FN3. In *Savage v. Utah Youth Village,* we also recognized that this court will disregard the plain language of a statute if it is " 'unreasonably confused, inoperable, or in blatant contravention of the express purpose of a statute.' " 2004 UT 102, ¶ 18, 104 P.3d 1242 (quoting *Perrine v. Kennecott Mining Corp.,* 911 P.2d 1290, 1292 (Utah 1996)). Because we hold that Utah Code section 76-5-

404.1 produces an absurd result in this case, we do not address other exceptions to the plain meaning rule.

12 In defining the parameters of what constitutes an absurd result, we note the inherent tension in this canon of construction between refraining from blind obedience to the letter of the law that leads to patently absurd ends and avoiding an improper usurpation of legislative power through judicial second guessing of the wisdom of a legislative act. *See West Jordan v. Morrison,* 656 P.2d 445, 446 (Utah 1982) ("[I]t is not the duty of this Court to assess the wisdom of the statutory scheme.") As was recognized by Blackstone, this tension defines the proper boundaries of the absurd result doctrine:

[A]nd if there arise out of [the acts of parliament] collaterally any absurd consequences, manifestly contradictory to common reason, they are, with regard to those collateral consequences, void. I lay down the rule with these restrictions; though I know it is generally laid down more largely, that acts of parliament contrary to reason are void. But if the parliament will positively enact a thing to be done which is unreasonable, I know of no power that can control it: and the examples usually alleged in support of this sense of the rule do none of them prove, that where the main object of a statute is unreasonable the judges are at liberty to reject it; for that were to set the judicial power above that of the legislature, which would be subversive of all government. But where some collateral matter arises out of the general words, and happens to be unreasonable; there the judges are in decency to conclude that this consequence was not foreseen by the parliament, and therefore they are at liberty to expound the statute by equity, and only quoad hoc disregard it.

William Blackstone, 1 *Commentaries* *91. Thus, as is common to all rules of statutory construction, the guiding star of the absurd results doctrine is the intent of the pertinent legislative body, which limits the application of this canon of construction. Rather than controverting legislative power, the absurd results doctrine functions to preserve legislative intent when it is narrowly applied. ***1210** *Pub. Citizen v. United States Dep't of Justice,* 491 U.S. 440, 470, 109 S.Ct. 2558, 105 L.Ed.2d 377 (1989) (Kennedy, J., concurring) ("When used in a proper manner, this narrow exception to our normal rule of statutory construction does not intrude upon the lawmaking powers of Congress, but rather demonstrates a respect for the coequal Legislative Branch, which we assume would not act in an absurd way."); *Church of the Holy Trinity v. United States,* 143 U.S. 457, 459, 12 S.Ct. 511, 36 L.Ed. 226 (1892) ("This is not the substitution of the will of the judge for that of the legislator, for frequently words of general meaning are used in a statute, words broad enough to include an act in question, and yet a consideration of the whole legislation, or of the circumstances surrounding its enactment, or of the absurd results which follow from giving such broad meaning to the words, makes it unreasonable to believe that the legislator intended to include the particular act."). Therefore, in deference to Congress, the Supreme Court has noted that this canon of statutory interpretation applies only where the result is so absurd that " 'Congress could not *possibly* have intended' " it. *Pub. Citizen,* 491 U.S. at 470, 109 S.Ct. 2558 (Kennedy, J., concurring) (quoting *FBI,* 456 U.S. at 640, 102 S.Ct. 2054 (O'Connor, J., dissenting)).

¶ 13 Other than the directive that a result must be so absurd that the legislative body which authored the legislation could not have intended it, there is no precise legal standard to determine what legislatures would consider to be an absurd result. *See* Veronica M. Dougherty, *Absurdity and the Limits of Literalism: Defining the Absurd Result Principle in Statutory Interpretation,* 44 Am. U.L.Rev. 127, 128 (1994). This comes as no surprise because the absurd, by definition, evades neat categorization. The contours of the doctrine, therefore, are best traced by referring to examples of what both the Supreme Court and this court have deemed to be an absurd result.

¶ 14 In one of its earliest applications of the absurd result doctrine, the Supreme Court was called upon to interpret a federal statute that made it a crime to "knowingly and willfully obstruct or retard the passage of the mail." *United States v. Kirby,* 7 Wall. 482, 74 U.S. 482, 482, 19 L.Ed. 278 (1869) (internal quotation marks omitted). The statute was applied to a sheriff and his posse who had boarded a steamboat and executed an arrest warrant for murder against a mail carrier who was in the process of transporting the mail. *Id.* at 482-83. The Court held that in order to avoid such an absurd result, it is "presumed that the legislature intended exceptions to its language." *Id.* at 487.

As such, "[g]eneral terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence." *Id.* at 486. The Court supported this proposition with two frequently cited [FN4] historical illustrations of the principle:

FN4. Veronica M. Dougherty, *supra* ¶ 13, at 139 & n. 51.

> The common sense of man approves the judgment mentioned by Puffendorf, that the Bolognian law which enacted, "that whoever drew blood in the streets should be punished with the utmost severity," did not extend to the surgeon who opened the vein of a person that fell down in the street in a fit. The same common sense accepts the ruling, cited by Plowden, that the statute of 1st Edward II, which enacts that a prisoner who breaks prison shall be guilty of felony, does not extend to a prisoner who breaks out when the prison is on fire-"for he is not to be hanged because he would not stay to be burnt." And we think that a like common sense will sanction the ruling we make, that the act of Congress which punishes the obstruction or retarding of the passage of the mail, or of its carrier, does not apply to a case of temporary detention of the mail caused by the arrest of the carrier upon an indictment for murder.

Id. at 487.

15 More recent examples of what has been considered absurd can be found in the decisions of this court.[FN5] In ***1211** *Tschaggeny v. Milbank Insurance Co.*, 2007 UT 37, ¶¶ 26-28, 163 P.3d 615, we were called upon to interpret a statute that requires the court to grant the plaintiff interest on special damages awarded by the jury "from the date of the occurrence of the act giving rise to the cause of action to the date of entering the judgment." Utah Code Ann. § 78-27-44(2) (2002). In that case, the defendant had made a payment to the plaintiff well before the date of the trial, which the trial judge had deducted from the final jury award. *Tschaggeny*, 2007 UT 37, ¶ 7, 163 P.3d 615. Under the relevant statute, however, the plaintiff sought interest on this pretrial payment for the full statutory period, even for the time after the money had already been remitted to her. *Id.* ¶ 27. We found that "[b]ecause the clear purpose of section 78-27-44(2) is to compensate wronged parties for delays in recovering damages, it is absurd to require a defendant to pay interest on money that has already been remitted to the plaintiff." *Id.* ¶ 28.

FN5. A related but separate canon of statutory interpretation states that when the statutory language plausibly presents the court with two alternative readings, we prefer the reading that avoids absurd results. *State v. Redd*, 1999 UT 108, ¶ 12, 992 P.2d 986; *Clover v. Snowbird Ski Resort*, 808 P.2d 1037, 1045 n. 39 (Utah 1991). We avoid citing cases that utilize this form of statutory interpretation because this canon of construction does not necessitate the level of caution required when this court interprets a statute contrary to its plain meaning.

¶ 16 And in *Savage*, 2004 UT 102, ¶¶ 14, 19, 104 P.3d 1242, we were called on to interpret Utah Code section 78-12-25.1(2), which provides that "[a] person shall file a civil action for intentional or negligent sexual abuse suffered as a child ... within four years after the person attains the age of 18 years." We noted that the plain language of the statute would bar a minor from pursuing a civil suit for sexual abuse until he attained 18 years of age. *Savage*, 2004 UT 102, ¶ 19, 104 P.3d 1242. Thus, a plain language reading would have barred the three-year-old victim in that case from filing a civil suit for fifteen years from the time of abuse. *Id.* ¶¶ 5, 19. We simply noted that "[s]uch a result would be absurd." *Id.* ¶ 19.

17 With these precedents in mind, we examine whether Utah Code section 76-5-404.1 has been applied so as to produce an absurd result in this case. Because we conclude that the legislature could not possibly have intended to punish both children under the child sex abuse statute for the same act of consensual heavy petting,[FN6] we hold that applying the plain language of the statute in this case produces an absurd result.

FN6. It is undisputed that Z.C. and the boy engaged in more than just sexual touching, but we must analyze the absurd result question in the context of the law actually applied and the act with which the State chose to charge Z.C., not the law that might have been applied or the act with which the

State could have charged Z.C.

¶ 18 Sexual abuse of a child is one of the most heinous crimes recognized by our penal code. The gravity of this crime is reflected by the fact that it is punished as a second degree felony if committed by an adult.[FN7] Child sex abuse merits serious penalties because of the extreme psychological harm that the perpetrator causes the victim. Therefore, like all forms of sexual assault, child sex abuse presupposes that a single act of abuse involves a victim, whom the statute endeavors to protect, and a perpetrator, whom the statute punishes for harming the victim. *See* Utah Code Ann. § 76-5-404.1(4)(b)-(d), (f), (h), (i) (2003) (describing the aggravating factors, which if perpetrated against "the victim" merit an elevated charge of aggravated sexual abuse of a child); *id.* § 76-5-406 (describing the situations in which "the victim" has not consented for sexual assault crimes); *id.* § 76-5-405(1) (describing the aggravating factors, which if perpetrated against "the victim" merit an elevated charge of aggravated sexual assault); *id.* § 76-5-402 (referencing "the victim" of rape); *id.* § 76-5-404 (referencing "the victim" of forcible sexual abuse); *id.* § 76-5-402.2 (referencing "the victim" of object rape).

FN7. If one of several aggravating factors can be shown by the State, a perpetrator can be convicted of aggravated sexual abuse of a child, a first degree felony if committed by an adult, which is punishable by a minimum of five years of imprisonment without parole, and potentially life imprisonment without parole. Utah Code Ann. §§ 76-5-404.1(4)-(5), 76-3-406 (2003). Under the State's proposed application of the law, therefore, if Z.C. committed more than five "separate acts" of sexual touching, she could be adjudicated delinquent for aggravated sexual abuse of a child. *See id.* § 76-5-404.1(4)(g).

…

21 A review of the floor debates regarding the 1983 enactment of the Child Kidnaping and Sexual Abuse Act, L.1983, ch. 88, § 24, which created Utah Code section 76-5-404.1, reveals no evidence that the legislature contemplated application of the statute to situations where the same child was both victim and perpetrator. *See* House floor debate on H.B. 209, March 1, 1983; Senate floor debate on H.B. 209, March 8, 1983. Although we generally do not consult **legislative history** where the meaning of the statute is clear, after finding that the plain meaning has been applied in an absurd manner, we seek to confirm that the absurd application was indeed unintended by the legislature. *See Green v. Bock Laundry Mach. Co.*, 490 U.S. 504, 527, 109 S.Ct. 1981, 104 L.Ed.2d 557 (1989) (Scalia, J., concurring), *superseded by statute as stated in United States v. Spencer*, 25 F.3d 1105, 1109 (D.C.Cir.1994) ("I think it entirely appropriate to consult all public materials, including the background of Rule 609(a)(1) and the **legislative history** of its adoption, to verify that what seems to us an unthinkable disposition ... was indeed unthought of, and thus to justify a departure from the ordinary meaning of the word "defendant" in the Rule. For that purpose, however, it would suffice to observe that counsel have not provided, nor have we discovered, a shred of evidence that anyone has ever proposed or assumed such a bizarre disposition.").

***1213** ¶ 22 Recent legislative developments bolster our conclusion that the children's simultaneous delinquency adjudications could not have been intended by the legislature. In reaction to the court of appeals' disposition in this case, the legislature passed a bill that amended the diversion statute to avoid the application of the child sex abuse statute in similar cases. *See* Juvenile Offenses Diversion Amendment, L.2006, ch. 166, § 1 (codified as amended at Utah Code Ann. § 77-2-9(2) (Supp.2006)). Although the previous version of the statute forbade diversions for crimes "involving a sexual offense against a victim who is under the age of 14," Utah Code Ann. § 77-2-9 (2003), the amended version allows diversions for sexual offenses committed by individuals under the age of sixteen as long as "the person did not use coercion or force; there is no more than two years' difference between the ages of the participants; and it would be in the best interest of the person to grant diversion," *id.* § 77-2-9(2) (Supp.2006). The State argues that because the legislature did not change the underlying child sex abuse statute, it did envision the prosecution of victims as perpetrators, as happened in this case. We disagree. The underlying purpose of the amendment was undoubtedly to prevent future delinquency adjudications similar to Z.C.'s. In fact, the sponsor of the bill in the House stated, "I think most of us would agree that when twelve and thirteen years olds get involved in this kind of behavior it's certainly not something we want to

allow or encourage. We also probably do not want to convict them both of 'rape of a child'...." Comments of Rep. Fowlke, House floor debate on S.B. 167, March 1, 2006.

MARTINEZ V. MEDIA-PAYMASTER PLUS/CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS
164 P.3D 384, UTAH, 2007

46 We review the court of appeals' statutory interpretation of section 34A-2-413(1)(c) for correctness. *See State v. Ireland*, 2006 UT 82, ¶ 6, 150 P.3d 532. When interpreting statutes, we look first to the statute's plain language with the primary objective of giving effect to the legislature's intent. *Savage v. Utah Youth Vill.*, 2004 UT 102, ¶ 18, 104 P.3d 1242. "We presume that the legislature used each word advisedly" and read "each term according to its ordinary and accepted meaning." *State v. Barrett*, 2005 UT 88, ¶ 29, 127 P.3d 682 (internal quotation marks and citation omitted). Statutes should be read as a whole and their provisions interpreted in harmony with related provisions and statutes. *Miller v. Weaver*, 2003 UT 12, ¶ 17, 66 P.3d 592.

47 When the language of the statute is plain, other interpretive tools are not needed. *Adams v. Swensen*, 2005 UT 8, ¶ 8, 108 P.3d 725. However, if the language is ambiguous, the court may look beyond the statute to **legislative history** and public policy to ascertain the statute's intent. *Utah Pub. Employees Ass'n v. State*, 2006 UT 9, ¶ 59, 131 P.3d 208 (Parrish, J., concurring). When viewed holistically, a statute is ambiguous if duplicative, yet plausible meanings are not eliminated from possibility. *Id.* ¶ 60.

…

51 The court of appeals' interpretation, allocating subsection (c)'s burden of proof to the employer, renders meaningless the employee's responsibility to prove permanent total disability under (b)(ii). We avoid construing "a particular provision of a statute so as to neutralize ... other provisions if any other construction of the particular provision is at all tenable." *Chris & Dick's Lumber & Hardware v. Tax Comm'n*, 791 P.2d 511, 516 (Utah 1990) (Howe, J., dissenting).

¶ 52 The plain language of subsection (c) further bolsters our interpretation that the employee bears the burden of proof.

…

Although we concede that section 34A-2-413(1)(c) was not artfully drafted, we refrain from creating clarity by reading additional terms into the statute.

STATE V. WALLACE
150 P.3D 540, UTAH, 2006.
DECEMBER 19, 2006

9 When interpreting a statute, we must generally presume the legislature used each term thoughtfully. We therefore strive to give appropriate meaning to each term and to avoid an interpretation that renders portions of the statute superfluous or inoperative. *See, e.g., State v. Tooele County*, 2002 UT 8, ¶ 10, 44 P.3d 680. That approach can be reasonably applied, however, only to statutes in which the plain language, or the language and **legislative history** combined, reasonably accommodates such a reading. In rare cases, where the statutory language supports no such reconciliatory interpretation, we "decline to insert ... a substantive [term] by judicial fiat." [FN2] Our task is to interpret the words used by the legislature, not to correct or revise them. When the words are clear, however incongruous they may appear in policy application, we will interpret them as written, leaving to the legislature the task of making corrections when warranted.

FN2. *Burns v. Boyden*, 2006 UT 14, ¶ 16, 133 P.3d 370; *see also Arredondo v. Avis Rent A Car Sys., Inc.*, 2001 UT 29, ¶ 12, 24 P.3d 928 (refusing to infer "substantive terms" into the text of a statute if they are "not already there").

¶ 10 In this case, adopting Wallace's interpretation would require us to insert the term "shall" into the statute. We decline to do so for two reasons. First, the statute employs the permissive term "may" in contrast to the compulsory term "shall." Second, in the relevant provision's most recent amendment, the Utah Legislature specifically removed the term "shall" from the former version and replaced it with "may."

STATE V. IRELAND
150 P.3D 532, UTAH, 2006.
DECEMBER 15, 2006

7 Interpreting the aggravated robbery statute requires us to discern "the true intent and purpose of the Legislature." [FN6] The best evidence of the legislature's "intent and purpose" is the plain language of the statute.[FN7] When analyzing statutory language, "we presume that the legislature used each word advisedly and give effect to each term according to its ordinary and accepted meaning." [FN8]

FN6. *State v. Maestas*, 2002 UT 123, ¶ 52, 63 P.3d 621 (internal quotation marks omitted).

FN7. *State v. Hunt*, 906 P.2d 311, 312 (Utah 1995) (citation and internal quotation marks omitted).

FN8. *Travelers/Aetna Ins. Co. v. Wilson*, 2002 UT App 221, ¶ 12, 51 P.3d 1288 (internal quotation marks omitted).

…

11 The plain meaning of the term "representation," as used by section 76-1-601(5), encompasses a gesture. Unlike a facsimile, which is " 'an exact and detailed copy,' " [FN13] a wide array of items, conduct, and statements can be considered representations.[FN14] *Black's Law Dictionary* defines a "representation" as "[a] presentation of fact-either by words or by conduct-made to induce someone to act." [FN15] A representation has also been defined as "[a]n image or likeness of something" or an "account ... of facts." [FN16] In context, the use of the term "representation" refers to verbal or nonverbal statements or conduct "conveying an impression for the purpose of influencing action." [FN17] Because a concealed gun-like gesture is intended to influence a victim to act out of fear for his life or safety, it falls within the definition of representation.

FN13. *State v. Candelario*, 909 P.2d 277, 279 (Utah Ct.App.1995) (quoting *Webster's Third New Int'l Dictionary* 813 (1986)).

FN14. *Id.* at 278-79 (indicating that "representation" is "an expansive term" that is subject to "multiple meanings" including "a verbal or nonverbal statement").

FN15. *Black's Law Dictionary* 1303 (7th ed.1999).

FN16. *The American Heritage Dictionary of English Language* (4th ed.2004), *available at* http:// dictionary. reference. com/ browse/ representation.

FN17. *Candelario*, 909 P.2d at 278.

¶ 12 The plain meaning of the word "representation" as used in the statute is buttressed by the available **legislative history**. The term "representation" was added to the statute in response to this court's decision in *State v. Suniville*.[FN18] In that case, the defendant pointed his concealed hand at a bank teller and demanded that she give him all her money to prevent the robbery from turning "into a homicide." [FN19] Under the prior version of the statute, which did not include the term

"representation," this court ruled that a "[d]efendant's menacing gesture accompanied by verbal threats is not sufficient evidence alone to establish the use of a firearm or a facsimile of a firearm." [FN20] The legislature responded to our ruling by adding the term "representation" to the statute, evincing its intent that gestures, at least those accompanied by verbal threats, should be covered by the aggravated robbery statute.

LI V. ENTERPRISE RENT-A-CAR CO. OF UTAH
150 P.3D 471, UTAH, 2006.
DECEMBER 05, 2006

9 In interpreting the insurance requirements imposed on rental car companies by Utah's statutes, we first turn to familiar canons of statutory construction. Our primary goal in interpreting these statutes is "to evince the true intent and purpose of the Legislature." [FN11] We do so "by first looking to the statute's plain language, and giv[ing] effect to the plain language unless the language is ambiguous." [FN12] In conducting this plain meaning analysis, "[w]e read the plain language of the statute as a whole, and interpret its provisions in harmony with other statutes in the same chapter and related chapters." [FN13]

FN11. *Lovendahl v. Jordan Sch. Dist.,* 2002 UT 130, ¶ 20, 63 P.3d 705 (citation and internal quotation marks omitted).

FN12. *Id.* ¶ 21 (citation and internal quotation marks omitted).

FN13. *Miller v. Weaver,* 2003 UT 12, ¶ 17, 66 P.3d 592.

¶ 10 In this case, Utah Code section 31A-22-314 can be interpreted only with reference to the broader statutory scheme that imposes motor vehicle insurance requirements on motor vehicle owners.

…

21 As we have often stated, we "presume that the legislature used each word [in a statute] advisedly and [we] give effect to each term according to its ordinary and accepted meaning." [FN39] In conducting a plain language interpretation of section 31A-22-314, we must therefore attribute meaning to the Legislature's use of the word "primary" to modify "coverage." In this case, we note that the combined term "primary coverage" is a well-established term of art that the ***478** Legislature and courts use to refer to the proper ordering of insurance coverages when multiple policies cover the same injury.[FN40] Primary coverage contrasts with coverage of a different order, such as "secondary" (also referred to as "excess") coverage. *Black's Law Dictionary* defines the synonymous term "primary insurance" as "[i]nsurance that attaches immediately on the happening of a loss; insurance that is not contingent on the exhaustion of an underlying policy. Cf. *excess insurance.*" [FN41]

STATE V. HOLM
137 P.3D 726, UTAH, 2006.
MAY 16, 2006

16 To determine whether the "purports to marry" provision of Utah's bigamy statute is properly applicable to Holm, we must interpret that provision within its context in the Utah Code. "[O]ur primary goal in interpreting statutes is to give effect to the legislative intent, as evidenced by the plain language, in light of the purpose the statute was meant to achieve." *Foutz v. City of S. Jordan,* 2004 UT 75, ¶ 11, 100 P.3d 1171 (internal quotation marks omitted). "We presume that the legislature used each word advisedly and give effect to each term according to its ordinary and accepted meaning." *C.T. v. Johnson,* 1999 UT 35, ¶ 9, 977 P.2d 479 (internal quotation marks omitted). Furthermore, "[w]e read the plain language of the statute as a whole, and interpret its

provisions in harmony with other statutes in the same chapter and related chapters." *Miller v. Weaver*, 2003 UT 12, ¶ 17, 66 P.3d 592. Only when we find that a statute is ambiguous do we look to other interpretive tools such as **legislative history**. *See Adams v. Swensen*, 2005 UT 8, ¶ 8, 108 P.3d 725.

¶ 17 The "purports to marry" provision of Utah's bigamy statute declares that "[a] person is guilty of bigamy when, knowing he has a husband or wife or knowing the other person has a husband or wife, the person purports to marry another person." Utah Code Ann. § 76-7-101(1). Both parties to this appeal agree that "purport" means "[t]o profess or claim falsely; to seem to be." *Black's Law Dictionary* 1250 (7th ed.1999).

18 The definition of "marry," however, is disputed. … We hold that the term "marry," as used in the bigamy statute, includes both legally recognized marriages and those that are not state-sanctioned because such a definition is supported by the plain meaning of the term, the language of the bigamy statute and the Utah Code, and the **legislative history** and purpose of the bigamy statute.

¶ 19 First, the common usage of "marriage" supports a broader definition of that term than that asserted by Holm. The dictionary defines "marry" as

[look at dictionary]

…

¶ 22 Second, when we look, as we must, at the term "marry" in the context of the bigamy statute, as well as statutes in the same chapter and related chapters of the Utah Code, it is clear that the Legislature intended "marry" to be construed to include marriages that are not state-sanctioned. Most significantly, the text of the bigamy statute supports a more expansive definition of "bigamy" than that asserted by Holm.[FN6]

…

26 Third, although we need not look at other interpretive tools when the meaning of the statute is plain, our construction of "marry" is supported by the **legislative history** and purpose of the bigamy statute. As will be discussed more fully below, *see infra* ¶¶ 40-48, the well-documented **legislative history** of this State's attempts to prevent the formation of polygamous unions supports our conclusion that the bigamy statute was intended to criminalize both attempts to gain ****736*** legal recognition of duplicative marital relationships and attempts to form duplicative marital relationships that are not legally recognized.

STATE V. IRELAND
133 P.3D 396, UTAH, 2006.
MARCH 10, 2006

11 In determining the scope of "consumption," our "primary objective" is "to give effect to the legislature's intent," which is "manifested by the language it employed" in the statute.[FN16] Only if we find the statutory language to be ambiguous may we turn to secondary principles of statutory construction or look to the statute's **legislative history**. [FN17]

FN16. *Smith v. Price Dev. Co.*, 2005 UT 87, ¶ 16, 125 P.3d 945 (internal quotation marks omitted).

FN17. *Id.*

…

The definition of "consumption," however, is not clear from the plain language of that statute. "Consumption" is not defined by the possession or use subsection nor any section of the Utah

Code. The dictionary defines “consumption” as “the act or process of consuming,” which includes “to do away with completely,” “to spend wastefully,” to “use up,” “to eat or drink,” “to engage fully” or to “waste or burn away.” [FN19] Under this definition, the interpretations asserted by both the State and Ireland are reasonable. On one hand, the “to eat or drink” definition supports Ireland's interpretation that “consumption” is a method of ingestion. On the other hand, the “to waste or burn away” definition supports the State's construction that “consumption” includes the metabolic process.

FN18. *See supra* ¶ 2.

FN19. Merriam-Webster's Collegiate Dictionary 249 (10th ed.1998).

13 As we conclude that the term “consumption” is ambiguous, we look to the canons of statutory construction to determine what meaning the Legislature intended.[FN20] Ireland contends that “consumption” is a catchall term encompassing novel methods of ingestion. In support of this interpretation, Ireland implicitly relies on the ejusdem generis canon of statutory construction, which provides that when a statute contains a list of specific words that relate to a certain type of item and those words are followed by a general word, the general word should be “construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words.” [FN21] In particular, Ireland argues that because each of the terms preceding “consumption” in the definition of “use”-application, inhalation, swallowing, and injection-describes a method of introducing a substance into the body, the term “consumption” must also be a method of introducing substances into the body and should be construed as a catchall term encompassing any other method of introducing substances into the body.

FN20. *See Eaquinta v. Allstate Ins. Co.*, 2005 UT 78, ¶ 9, 125 P.3d 901 (applying canons of statutory construction to determine legislative intent).

FN21. 2A Norman J. Singer, Statutes and Statutory Construction § 47:17, at 273-74 (6th ed.2001).

¶ 14 The State relies, however, on another canon of statutory construction that requires every word of a statute to be given effect so that no part of the statute will be inoperative or superfluous. Under this canon, when “the specific words embrace all the ... objects of the class designated by the enumeration, the general words take a meaning beyond the class.” [FN22] The State argues that the enumerated terms preceding “consumption” exhaust the possible methods of ingestion and that “consumption” must, therefore, mean something additional, otherwise the term would be superfluous.

FN22. *Id.* § 47:21, at 295.

¶ 15 The State's reliance on this canon of construction is misplaced for two reasons. First, to apply this canon, we must find that the terms preceding “consumption” exhaust the possible methods of introducing a substance into the body. Admittedly, it is difficult to think of methods of ingestion that are not enumerated in the statutory definition of “use.” But at least one example exists: insertion, such as through a suppository.

16 Second, and more fundamentally, the primary goal of statutory construction is to determine legislative intent.[FN23] No canon of construction can be used to construe a statute in a way that is inconsistent with legislative intent.[FN24] By looking, as we must,[FN25] ***401** at statutes relating to the same subject as the possession or use subsection, it is apparent that the Legislature did not intend “consumption” to include metabolization.

FN23. *State v. Maestas*, 2002 UT 123, ¶ 52, 63 P.3d 621.

FN24. Singer, *supra* note 21, § 46:07, at 201 (“The literal interpretation of the words of an act should not prevail if it creates a result contrary to the apparent intention of the legislature and if the words are sufficiently flexible to allow a construction which will effectuate the legislative

intention.”).

FN25. *See Lieber v. ITT Hartford Ins. Ctr., Inc.*, 2000 UT 90, ¶¶ 7-10, 15 P.3d 1030 (interpreting a statute in accordance with legislative intent by examining the plain language of the statute as a whole, as well as enactments relating to the same subject).

¶ 17 Most significantly, the Legislature has explicitly referred to the existence of controlled substances in the bloodstream in at least eight other statutes.[FN26] Each of these statutes contains language that refers to the existence of the drug or metabolites of the drug in the person's body. For example, under Utah Code section 41-6a-517 [FN27], it is unlawful for a person to operate a motor vehicle “if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.” We assume that, had the Legislature wanted to include the metabolization of controlled substances as a violation of the possession or use subsection, it would have done so explicitly.

FN26. *See* Utah Code Ann. §§ 41-6a-517(2), -520(1)(a)(iii), -525(2)(c) (2005) (dealing with driving while under the influence of drugs or alcohol); *id.* §§ 53-3-220(1)(a)(xiii), -223(1)(a) (Supp.2005) (driver licensing); *id.* §§ 34-41-101(2), -102(2), 34A-2-302(4)(a)(i) (maintaining drug-free workplaces).

FN27. Utah Code Ann. § 41-60-517 (2005).

¶ 18 This assumption is bolstered by the fact that the Legislature has subsequently amended the very statute now at issue, Utah Code section 58-37-8, to do precisely that. The statute now explicitly provides that a defendant violates the possession or use subsection “by knowingly and intentionally having in his body *any measurable amount of a controlled substance.*” [FN28] We note that neither party has argued that subsequent amendments to Utah Code section 58-37-8 [FN29] apply retroactively to Ireland's possession or use charge. Our analysis of the possession or use subsection is accordingly based on the version of the statute under which Ireland was charged, Utah Code section 58-37-8(2)(a)(i) (Supp.1999), and obviously would likely be different if we were to interpret the current version of the statute.

FN28. Utah Code Ann. § 58-37-8 (Supp.2005).

FN29. Automobile Homicide Amendments, ch. 10, § 1, 2003 Utah Laws 203, 204; Amendments to Controlled Substance Act, ch. 33, § 6, 2003 Utah Laws 302, 315-17; Unlawful Controlled Substances In Correctional Facilities, ch. 36, § 1, 2004 Utah Laws 182, 182-84; Drug Offense Penalty Enhancements, ch. 30 § 1, 2005 Utah Laws 390, 390-92.

¶ 19 Furthermore, defining “consumption” as a method of introducing controlled substances into the body is consistent with the definitions of “consumption” applied by other jurisdictions.[FN30] At least five states, via statute or case law, have limited the definition of “consumption,” or some derivative thereof, to methods of introducing a controlled substance into the body. [FN31] The State has not presented us with any caselaw or statutes that support including metabolization within the definition of “consumption.”

FN30. *State v. Wanosik*, 2003 UT 46, ¶ 23, 79 P.3d 937 (noting that when a term is not defined by statute and its meaning is unclear, a court may “look to other jurisdictions with similar language for guidance”).

FN31. *See* Mich. Comp. Laws. § 768.37(3)(b) (2005) (defining “consumed” as “to have eaten, drunk, ingested, inhaled, injected, or topically applied, or to have performed any combination of those actions, or otherwise introduced into the body”); Or.Rev.Stat. § 475.984(3)(c) (2003) (defining “ingest” as “to consume or otherwise deliver a controlled substance into the body of a person”); Tex. Health & Safety Code Ann. § 481.002(21) (Vernon 2005) (defining “human consumption” as “the injection, inhalation, ingestion, or application of a substance to or into the body”); *State v. Abu-Shanab*, 448 N.W.2d 557, 559 (Minn.Ct.App.1989) (“‘[C]onsume,’ in the context of alcoholic beverages, means to drink, and ... once drunk, alcohol is no longer being

consumed."); *State v. Hornaday*, 105 Wash.2d 120, 713 P.2d 71, 76 (1986) ("[T]he terms 'consume' and 'possession' ... do not include the stage at which the liquor has already been swallowed but is still being assimilated by the body.") *superseded by statute on other grounds as stated in State v. Silva*, 1999 WL 89119, *2 1999 Wash.App. LEXIS 297, *7 n. 9; *see also State v. Flinchpaugh*, 232 Kan. 831, 659 P.2d 208, 211 (1983) (limiting the definition of "possession or control" as to not include "[e]vidence of a controlled substance after it is assimilated in a person's blood"); *State v. Sorenson*, 758 P.2d 466, 468 (Utah Ct.App.1988) (noting in dicta that the trial court had held "the mere presence of alcohol on the breath or in the bloodstream does not constitute possession" under a statute that prohibits any person under the age of 21 from purchasing, possessing, or consuming alcohol and stating that such a position is "consistent with well-reasoned decisions from other jurisdictions which have addressed the issue").

***402** 20 For these reasons, we conclude that the Legislature intended "consumption" to be a catchall term encompassing all methods of introducing controlled substances into the body. Indeed, it is a "common drafting technique" for a legislature to list a number of specific terms followed by a general term, which is intended to encompass items or actions of the same nature as the enumerated terms.[FN32] This technique relieves "the legislature from spelling out in advance every contingency in which the statute could apply." [FN33]

FN32. Singer, *supra* note 21, § 47:17, at 281-82.

FN33. *Id.*

UTAH PUBLIC EMPLOYEES ASS'N V. STATE
131 P.3D 208, UTAH, 2006.
FEBRUARY 16, 2006

In fact, legislative debate regarding the 2004 statutory amendment was represented by the bill's sponsors as intended to bring the statute into accord with the widespread practice of allowing retiring employees to apply all unused sick leave toward paid-up medical and life insurance at the rate of eight hours to one month of insurance.[FN9]

FN8. *See, e.g.*, Utah Admin. Code R477-8-7(6)(c) (2000) ("An employee *may* elect to receive a cash payment or transfer ... *up to* 25 percent of his accrued unused sick leave at his current rate of pay." (emphasis added)).

FN9. The bill's sponsor, Representative David Clark, introduced the bill by stating that "[i]n fact, the purpose of this legislation is to make clarifying changes only *that are based on current agency interpretations and implementations of practice. There are no substantive changes that are meant or to be included in this draft.*" Audio recording: House Debate of H.B. 11, 55th Leg., Gen. Sess. (Feb. 10, 2004), *available at* http:// le.utah.gov/asp/audio/index.asp?Sess=2004GS & Day=0 & Bill=HB0 011 & House=H (emphasis added).

…

30 As always, we first look to the plain language of the statute to determine the conditions precedent. Based on the statute and the accompanying regulations,[FN28] the State contends that the statutory scheme unambiguously dictates that an employee may not receive retirement benefits until that employee *actually* retires. Plaintiffs, on the other hand, interpret the statutory language to mean that any member who chooses to bank unused sick leave has a vested property interest to use that sick leave for medical and life insurance benefits at retirement. We disagree with both parties' statutory interpretations.

…

¶ 31 Instead, we find the statutory language ambiguous as to when an employee's right to redeem the unused sick leave for medical and life insurance vests.

…

¶ 33 Absent clear language regarding or an obvious interpretation of "eligible to receive retirement benefits" in section 67-19-49 and Title 49, we conclude that the statutory language is ambiguous. It is clearly capable of more than one logical meaning within the statutory scheme.

…

¶ 36 Consequently, we conclude that section 67-19-14.2 lacks a clear meaning for "eligible to receive retirement benefits" because the language gives rise to several plausible interpretations.

…

¶ 37 We accordingly turn to the available indications of legislative intent to determine at what point all conditions precedent are satisfied for the vesting of employees' right to redeem unused sick leave for medical and life insurance under the Program.[FN36] The ***218** legislative intent behind these particular retirement benefits is clearly stated as "inducements to work for the state" [FN37] and "to reduce sick leave abuse." [FN38] Logically, no incentive exists if, as the State urges, the agency may *offer* the benefit only on the occasion of the employee leaving his or her state job by retirement. A benefit not known until the very day on which the employee can do nothing to earn it, is no incentive at all.

FN36. *See Murphy v. Crosland,* 886 P.2d 74, 80 (Utah Ct.App.1994) ("[W]here there is an ambiguity or uncertainty in a portion of a statute ... and if it is reasonably susceptible of different interpretations, the one should be chosen which best harmonizes with its [the statute's] general purpose.").

FN37. Utah Code Ann. § 67-19-3(16) (2005) (" 'Total compensation' means salaries and wages, bonuses, paid leave, group insurance plans, *retirement, and all other benefits offered to state employees as inducements to work for the state.*" (emphasis added)).

FN38. *Id.* § 67-19-14 (1979); *id.* § 67-19-14 (1983); *id.* § 67-19-14(1) (1988); *id.* § 67-19-14(1) (1993); *id.* § 67-19-14(1) (1998); *id.* § 67-19-14(1) (1999).

…

¶ 42 In our review of the statutory language and relevant **legislative history**, we are compelled to conclude that the State intended employees to accept the offer to redeem the hours for unused sick leave only *upon retirement.* For example, the regulations promulgated

PARRISH, Justice, concurring:

…

¶ 59 When construing statutory language, this court adheres to the well-accepted rule that we do " 'not look beyond the plain language of [the] provision unless we find some ambiguity in it.' " *State v. Ostler,* 2001 UT 68, ¶ 7, 31 P.3d 528 (alteration in original) (quoting *In re Worthen,* 926 P.2d 853, 866 (Utah 1996)); *Wilcox v. CSX Corp.,* 2003 UT 21, ¶ 8, 70 P.3d 85. Only upon finding ambiguity may we "seek guidance from the **legislative history** and relevant policy considerations." *Ostler,* 2001 UT 68, ¶ 7, 31 P.3d 528 (internal quotation marks omitted). In other words, we may not resort to extrinsic aids of interpretation unless we first find ambiguity in the statutory text. *See id.*

¶ 60 Like a contract, a statute is ambiguous when it may reasonably "be understood to have two or more plausible meanings." *Alf v. State Farm Fire & Cas. Co.,* 850 P.2d 1272, 1274 (Utah 1993) (internal quotation marks omitted) (defining ambiguity in the context of a contract); *Saleh v. Farmers Ins. Exch.,* 2006 UT 20, ¶ 15, 133 P.3d 428. But determining whether there are two or

more plausible meanings depends not only on the text of the particular provision at issue, but also on the text of the statute as a whole. *See Morton Int'l v. Auditing Div. of the Utah State Tax Comm'n,* 814 P.2d 581, 591 (Utah 1991). Indeed, "[w]e 'read the plain language of the statute as a whole, and interpret its provisions in harmony with other statutes in the same chapter and related chapters.' " *State v. Barrett,* 2005 UT 88, ¶ 29, 127 P.3d 682 (quoting *Miller v. Weaver,* 2003 UT 12, ¶ 17, 66 P.3d 592). As a result, a statute susceptible to competing interpretations may nevertheless be unambiguous if the text of the act as a whole, in light of related statutory provisions, makes all but one of those meanings implausible. *Id.* When viewing the act as a whole does not eliminate duplicative yet plausible meanings, the statute is ambiguous, and we may resort to extrinsic interpretive tools to resolve the ambiguity. *See Ostler,* 2001 UT 68, ¶ 7, 31 P.3d 528.

…

FN2. In actuality, the **legislative history** indicates that the legislature's intent was to conform the statute to agency practice. Audio recording: Senate Debate of H. B. 11, 55th Leg. Gen. Sess. (Feb. 26, 2004) *available at* http://le.utah.gov/asp/audio/index.asp?Sess=2004GS & Bill=HB0011 & Da y=0 & House=S ("[The 2004 amendment] codifies existing procedure ... and the existing way that we use unused sick leave.").

…

¶ 81 This conclusion is also consistent with the interpretation of the statute adopted by the Director of Human Resource Management in the applicable regulations. We previously have recognized that an agency's interpretation of a statute it administers may be given some weight. *See McKnight v. State Land Bd.,* 14 Utah 2d 238, 381 P.2d 726, 731 (1963). In this case, the director has effectively interpreted the provision at issue by promulgating rules that explicitly allow an agency to offer the Option Program to an employee only "[u]pon retirement." Utah Admin. Code r.477-7-6 (2005). And the regulations also provide that state agencies may opt in and out of the Option Program on an annual basis, a provision that is wholly inconsistent with the claim of a vested contractual right at any point prior to an employee's election to retire. *See id.* Inasmuch as the regulatory interpretation is abundantly reasonable and consistent with the statutory language, I believe it should be given considerable weight.