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Policy Critique of H.B. 110
2026 General Session of the
67th Legislature

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Office of
UTAH FOR RATIONAL SEX OFFENSE LAWS

Digest of
Policy Critique of H.B. 110
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OVERVIEW

H.B. 110 Section 3 imposes 10-20 year waiting periods before the Board of Pardons can consider pardons for registry offenses based on claims no state agency can verify. The bill raises unresolved constitutional questions about whether preventing the Board from exercising its pardon power for entire offense categories exceeds the legislature's authority to "regulate" clemency.

KEY PROBLEMS

1. THE DATA PROBLEM

The Claim: Pardons for registry offenses have increased "every single year" since 2021.
The Reality: No state agency can verify this claim.

- BCI denied GRAMA request for aggregate data
- Dept. of Public Safety claims compiling totals would "create new records"
- Board of Pardons confirmed "uptick" in applications but provided no quantitative data
- Legislative Research Office declined to provide public research services

Existing Data Contradicts Premise (2015-2019):

- 83 total petitions submitted
- 14 approved (16.9% rate) | 69 denied (83.1% rate)
- Fewer than 3 approvals annually
- Board has capacity for ~48 hearings/year—no capacity crisis exists

2. **THE CONSTITUTION QUESTION**

Utah Constitution Article VII, Section 12: Board "may grant pardons after convictions… subject to regulations as provided by statute."

The Issue: Does preventing the Board from considering pardons for 10-20 years constitute "regulation" or substantive elimination of constitutional power?

H.B. 110 Language: "The board may only consider issuing a pardon if" [waiting periods met]

- This doesn't regulate how Board decides—it prevents Board from deciding at all
- No Utah court has resolved whether this exceeds legislative authority
- Creates unique restriction: murder/assault eligible immediately; non-contact registry offense waits 10-20 years

Board's Troubling Response: Supportive or silent on restrictions

- Original bill included $300,000 victim notification costs; removal in Substitute #2
- Board's annual budget: ~$4.4-4.5 million (notification = 6-7% of budget)
- Implicit exchange: Legislature gained waiting periods; Board gained budget relief

3. THE FALSEEQUIVALENCE

Rep. Clancy's Rationale: Pardon and registry removal pathways should "align" for "parity."

Registry Removal Process:

- Statutory—legislature created it
- Legislature sets any conditions it wants

Pardon Process:

- Constitutional—vested in Board of Pardons
- Constitution limits legislature to "regulations"

WHAT THIS BILL ACTUALLY DOES

Although framed as preserving the Board's discretion, the provision effectively suspends that discretion for 10–20 years, eliminating the Board's ability to account for:

- Individualized rehabilitation
- demonstrated low risk
- Disproportionate sentences warranting clemency
- Exceptional rehabilitation posing no threat

UNANSWERED QUESTIONS

1. Has Board ever granted pardon for rape of a child (§76-5-402.1)? Rep. Clancy cited this as possible—but in 43 years, has it happened?
2. What offenses do petitioners actually have? Without data, we can't assess if "problem" involves serious crimes or lower-level offenses.
3. Where are documented public safety failures from current pardon process?
4. What are recidivism rates for pardon removals vs. other removal mechanisms?

BOTTOM LINE

Three Tests This Bill Fails:

1. Evidence-Based Policy? No data supports premise; available data contradicts it
2. Constitutionally Sound? Serious unresolved questions about Board authority
3. Necessary? Board already exercises restraint; no documented failures

Recommendation: Request independent study and comprehensive data before imposing permanent restrictions on constitutional clemency authority without evidence of need.

Office of Utah for Rational Sex Offense Laws

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February 13, 2026

To Members of the Senate Judiciary, Law Enforcement, and Criminal Justice Committee,

Transmitted herewith is our **Policy Critique of H.B. 110 2026 General Session of the 67th Legislature** (Publication #2026-13). A digest is found on the pages located in the front of this document. The objectives and scope of the critique are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in this document in order to facilitate the implementation of the recommendations.

Sincerely

Utah for Rational Sex Offense Laws

UTRSOL/lm

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Introduction

H.B 110 provision three proposes significant modifications to Utah's pardon and parole processes, with particular emphasis on restricting the Board of Pardons and Parole's (BOPP) discretion regarding individuals on the sex offense registry. This critique identifies critical deficiencies in the legislative process and substantive policy concerns that warrant careful consideration before passage. It evaluates the institutional dynamics surrounding the Board of Pardons, and argues that Utah is engaging in perception management masquerading as evidence-based public safety legislation.

The bill lacks an empirical foundation, with no data supporting Rep. Clancy's claims of an increase in registry removal petitions or problematic BOPP decisions. Multiple state agencies have declined to provide or confirm the non-existence of data that would justify the proposed restrictions, creating a system where policy can proceed without empirical foundation. Historical data contradicts the premise of H.B. 110, showing extremely conservative BOPP practices with only 14 approvals out of 83 petitions between 2015-2019. The legislation creates procedural inequities and eliminates meaningful individualized review without documented public safety benefits.

The Board of Pardons and Parole appears supportive of Section 3's rigid pardon timelines despite the apparent undermining of the Board's constitutional and statutory responsibilities to traditional discretionary authority. This dynamic raises questions about institutional independence and whether the Board is acquiescing to legislative micromanagement at the expense of rehabilitative goals or funding by the legislature. These questions suggest a need for greater examination of the relationship between the Board and the Legislature, and whether appropriate boundaries exist to preserve the Board's independence and expertise in post-conviction decision-making.

Taken together, these deficiencies suggest that H.B. 110 is less a response to demonstrated failures in the pardon and parole system than a symbolic effort to signal toughness on crime by narrowing discretion in one of the few remaining individualized decision-making bodies in Utah's criminal legal system. By substituting inflexible statutory mandates for case-specific judgment—without evidence of risk reduction or system abuse—the bill risks entrenching permanent punishment, eroding due process norms, and further disconnecting policy from measurable public safety outcomes.

Background

H.B. 110, sponsored by Representative Tyler Clancy, underwent two substitutions prior to it's scheduled public hearing on February 2 in the House Judiciary Committee. The second substitute, titled "Offender Supervision Amendments," from its original "Board of Pardons and Parole Amendments" significantly narrowed the scope of the original bill within its first two provisions. The third provision is the one in which this critique speaks most to, restricting the Board of Pardons and Parole's ability to grant pardons that would result in early removal from the sex offense registry, requiring individuals to wait the full registry duration period before becoming eligible for pardon consideration.

According to Rep. Clancy's stated rationale, the legislation addresses concerns that the pardon process has become "an expedited way for individuals to leave the registry early" and seeks to ensure "the existing process for registry removal is followed." Representative Clancy asserted during committee testimony that since Senate Bill 215 passed in 2021, allowing pardons to result in registry removal, the number of pardons granted to individuals with registerable offenses has increased "every single year."

Evidentiary Concerns

Between January 20 and February 2, 2026, UTRSOL made systematic attempts to obtain the data necessary to evaluate H.B. 110's empirical claims. Each attempt encountered institutional resistance in which requests were either declined, redirected, or met with acknowledgment that the requested data does not exist in state agency records. This pattern effectively insulated the bill's core assertions from scrutiny, allowing sweeping policy changes to advance without transparency, verification, or an evidentiary record sufficient to justify legislative intervention.

Department of Public Safety (DPS)
Bureau of Criminal Identification (BCI)

Initial GRAMA Request (January 20, 2026): UTRSOL submitted a Government Records Access and Management Act (GRAMA) request to the Bureau of Criminal Identification (BCI) requesting annual totals of out-of-state registrants from 2006 to 2025. The request specifically noted that BCI had produced exactly this type of report in 2005 for the Legislature.

BCI's Response: Denied. BCI claimed they 'did not have any other publicly accessible summary reports or statistics' and that aggregate data 'would be held within system files' with 'specific dissemination requirements' under Utah Code § 53-10-108(2).

Appeal to Commissioner (January 23, 2026): UTRSOL appealed the denial to Commissioner Beau Mason, arguing that the data had been compiled previously and represented a legitimate public interest.

DPS Response (February 2, 2026): Appeal denied. Quality and Process Improvement Director Melanie Marlowe invoked Utah Code § 63G-2-201(7), claiming that fulfilling the request would require DPS to 'create a new record' by 'compiling, formatting, manipulating, packaging, summarizing, or tailoring existing individual records.'

Critical Analysis: The denial raises serious legal questions and appears difficult to justify on the merits. BCI maintains a database of sex offense registrations that includes the state of conviction for each registrant. A simple database query could produce the requested annual totals. This is not 'creating a new record'—it is basic data retrieval. More importantly, DPS acknowledged that this exact type of report was produced in 2005 when the registry was managed by the Department of Corrections. The refusal therefore appears less related to technical limitations and more to concerns about disclosing information that could complicate the factual assumptions underlying the bill.

Office of Legislative Research and General Counsel

Initial Request (January 30, 2026): UTRSOL contacted the Office of Legislative Research and General Counsel (OLRGC), explaining that Rep. Clancy had not responded to our requests for the underlying data supporting H.B. 110.

OLRGC Response (same day): Two separate staff members replied within hours, stating: 'We do not provide legal or research services to the general public. We are internal staff for the Legislature and work for legislators.'

Critical Analysis: OLRGC's position creates a Catch-22 for evidence-based policy evaluation: The public cannot access legislative research services, legislators sponsoring bills are not requesting the data, state agencies claim they cannot compile the data, and therefore, legislation proceeds without empirical foundation. This system ensures that policy can be driven by perception, anecdote, and political pressure rather than systematic evidence.

Contradictory Claims by the Sponsor

During House Judiciary Committee testimony on February 2, 2026, Representative Clancy distributed a "one-pager" with "data" purporting to support H.B. 110. However, this document did not have to statistical data necessary to support his claims or rationale for the bill. Rep. Clancy's assertion that pardons for registerable offenses have increased "every single year" since 2021 cannot be verified through any publicly available state data source.

This creates a troubling transparency deficit: the Legislature is being asked to restrict BOPP discretion based on data that has not been subjected to public scrutiny, cannot be verified by state agencies responsible for tracking pardons and registry data, and was not available to stakeholders or advocacy organizations seeking to provide informed testimony.

This discrepancy raises serious questions about the evidentiary standards being applied in committee deliberations, as unverified claims were presented as factual justification for permanent statutory changes. When legislative action relies on opaque or unverifiable "data," it shifts policymaking from an evidence-based process to one driven by assertion and authority, undermining informed debate and weakening the integrity of the legislative record.

Existing Data Contradicts Legislative Premise

The most recent comprehensive data available comes from the Utah Department of Corrections' August 2019 presentation to the Judiciary Interim Committee. This presentation documented that between 2015 and 2019, 83 petitions for early termination were submitted to BOPP. Only 14 petitions were approved, representing a 16.9% approval rate, while 69 petitions were denied, reflecting an 83.1% denial rate.

These figures demonstrate that BOPP already exercises substantial restraint in granting early registry removal, contradicting the characterization that the pardon process has become an "expedited" alternative pathway. The extremely low approval rate suggests the Board is applying rigorous scrutiny to these petitions and is not functioning as a rubber stamp. In this context, imposing additional statutory restrictions appears redundant at best and punitive at worst, addressing a problem that the available data shows does not exist. Such constraints risk eliminating one of the few mechanisms for recognizing exceptional rehabilitation on an individualized basis.

The “Expedited” Claim

During the CCJJ Sex Offense Management Advisory Committee (SOMAC) meeting January 21, Board representative Melissa Stirba stated that while the Board only hears approximately 48 cases per year, “there has been an uptick in individuals on the registry submitting petitions for early terminations, it's not in the hundreds but the numbers have been increasing.”

Brittany Karzen, Program Director, Public Outreach and Transparency for the BOPP confirmed that “the Board has the capacity to conduct approximately 48 pardons hearings a year” and that Mrs. Stirba was correct in stating that “we have seen an increase in the number of sex offenders applying for those pardons.” Despite this increase in applications, the Board’s limited hearing capacity and historically low approval rates indicate that rising petitions do not translate into higher number of granted pardons.

In his statement to the Judiciary Committee, Rep. Clancy, cited that “since the law [Sen. Andregg SB215] went into effect every single year, the number of pardons that were granted that include a sex offense have gone up every single year.” However, no publicly available data from BOPP, BCI, or the Department of Corrections substantiates this claim, and multiple agencies have indicated that they do not track or cannot produce records confirming such a trend.

If it is being asserted that the number of individuals applying for pardons has increased since the 2021 legislation, and that the number of pardons granted involving sex offenses has likewise increased, what data supports these claims? Specifically, where is the quantitative dataset demonstrating these trends? Absent documented statistics, these statements appear to rest on perception rather than verifiable evidence, anecdote from trusted sources rather than verifiable evidence.

In the most extreme example cited by Rep. Clancy, someone convicted of Utah Code § 76-5-402.1, rape of a child, has the potential to get a pardon by the Board. While no statute categorically bars individuals with this conviction from petitioning the Board, the critical empirical question remains unanswered: in the 43-year history of Utah’s sex offense registry, has the Board of Pardons and Parole ever granted a pardon for this specific offense? If there is no historical precedent for such grants, invoking this statute as a representative example materially mischaracterizes how the pardon process operates in practice.

Utah Pathways Off The Registry

What statutes are registrants actually convicted under when they apply for pardons? Moreover, if petition volumes have increased in recent years, particularly since 2021, it is essential to examine who is eligible to petition and why. If the increase is largely attributable to individuals eligible under the five-year petition authorization for offenses otherwise subject to a ten-year registration period, then the appropriate policy response lies in reassessing the five-year eligibility framework itself, not in constraining the constitutional authority or discretion of the Board of Pardons and Parole.

Senate Bill 215, passed in 2021, established a pathway for individuals subject to lifetime sex offense registration to petition for a pardon and removal from the registry after 20 years. Under existing Utah law, individuals with 10-year registration requirements may petition for a pardon and removal once they have completed their 10-year registry period. Furthermore, certain individuals convicted of offenses carrying 10-year registration requirements are automatically removed from the registry upon completion of that term. Finally, for certain specific convictions that carry a 10-year registry requirement, individuals may become eligible to petition for a pardon and removal from the registry after just 5 years.

Two Tracks Framework

Mandatory Pardon Timelines

Section 3 of H.B. 110 establishes mandatory waiting periods for pardon petitions tied to sex-offense registry categories:

- Tier 2 Registrants: 10-year mandatory waiting period before the Board may consider a pardon petition
- Tier 3 Registrants: 20-year mandatory waiting period before the Board may consider a pardon petition

These timelines represent a significant departure from the Board's current practice, which generally allows pardon petitions after five years but permits earlier consideration based on extraordinary circumstances or compelling good cause. By imposing rigid waiting periods, the bill eliminates the Board’s ability to exercise discretion in assessing individual rehabilitation or risk factors. This one-size-fits-all approach undermines the principle of individualized review and could indefinitely delay relief for applicants who demonstrate exceptional rehabilitation.

Conflation with Registry Removal

The mandatory waiting periods in Section 3 mirror the timelines for registry removal under Utah Code §§ 53-29-205 and 53-29-206. This alignment creates potential confusion between two distinct legal processes:

- Registry Removal: A process focused specifically on whether continued registration is necessary for public safety
- Pardon Consideration: A broader clemency process evaluating rehabilitation, restoration of rights, and overall justice

By applying identical timelines to both processes, Section 3 may suggest that pardons and registry relief are interchangeable—a conceptual error that could lead to inappropriate application of standards designed for one process to the other.

Given that the Board of Pardons is written into the Utah constitution, the two tracks framing is misleading. Rep. Clancy stated that “Bill 110 on the second substitute, it does not remove the board's discretion to pardon someone,” however this is incorrect. By mandating fixed waiting periods, Section 3 effectively strips the Board of its constitutionally granted discretion to consider each case on its individual merits.

Article VII, Section 12(2)(a) of the Utah Constitution says the Board “may grant parole, remit fines, forfeitures, and restitution orders, commute punishments, and grant pardons after convictions, in all cases except treason and impeachments, subject to regulations as provided by statute.” The legislature can shape how the Board exercises the power (procedures, process, hearings), but it's a different question whether the legislature can impose conditions that effectively prevent the Board from exercising the power at all for certain categories of offenses or individuals.

The new Section 77-27-5.6(2) reads: “The board may only consider issuing a pardon to an offender for an offense that requires the offender to register as a sex offender on the registry if…” and then sets the 10-year or 20-year waiting periods. Rep. Clancy told the committee repeatedly that this “does not remove the board's discretion” and “does not limit the discretion.” But “may only consider” is a condition on when the power can even be invoked. It's not regulating how the Board deliberates once it has jurisdiction — it's regulating whether the Board has jurisdiction to act at all until a clock runs out. That's closer to a substantive limitation on the constitutional power than it is to a procedural regulation.

Rep. Clancy frames the pardon pathway and the court petition pathway as interchangeable alternatives that should logically have the same rules. But they are constitutionally different things. The registry removal petition process is purely statutory created by the legislature, and the legislature can set whatever conditions and timelines it wants on it. The pardon power however, is constitutionally vested in the Board. The legislature did not create it, and the constitutional text only authorizes “regulations.” Importing the petition process's timelines onto the pardon process and calling it "parity" papers over that distinction. The petition track's timelines were set by the legislature for a statutory process the legislature owns. The pardon track's timelines are being set by the legislature for a constitutional power that belongs to the Board. Those are not the same relationship.

No Utah court has addressed whether time-based preconditions on the exercise of a constitutionally granted pardon power constitute a “regulation” or a substantive limitation. And Clancy's repeated assurance to the committee that “this does not limit the Board's discretion” is, at minimum, a misleading characterization of what the bill's own language actually does.

Through Brittany Karzen, the Board thanked the legislature for its "thoughtful approach" rather than push back on whether the legislature is actually authorized to do what it's doing. The Board, whose constitutional power is being conditioned, expressed no concern; we find this worth noting.

Implications of Mischaracterization

The misframing of the pardon and registry processes as equivalent not only risks legal ambiguity but also undermines public understanding of the Board’s role and authority. By conflating statutory and constitutional pathways, the bill creates a perception that the Board’s discretion is intact while simultaneously imposing a substantive barrier to action. This disconnect between legislative rhetoric and statutory text could invite future legal challenges and sets a concerning precedent for the legislature conditioning constitutionally granted powers under the guise of procedural regulation.

In practice, this mischaracterization shifts the balance of power from the Board to the legislature, effectively allowing lawmakers to preemptively veto pardons for entire categories of offenses. Such an approach erodes the Board’s constitutional independence, risks politicizing individualized clemency decisions, and undermines the principle that pardons should remain a discretionary tool informed by rehabilitation and public safety, not a rigid legislative timetable.

False Equivalence Between Distinct Legal Processes

Representative Clancy's justification for H.B. 110 rests on the premise that the pardon process and the statutory registry removal process should be "aligned" to ensure "parity." This reasoning reflects a fundamental misunderstanding of the distinct purposes these processes serve:

Characteristic	Registry Removal Process	Pardon Process
Legal Basis	Legislative (statutory)	Executive (constitutional)
Purpose	Routine compliance with registration duration requirements	Extraordinary relief based on individualized circumstances
Standard	Compliance with statutory criteria after designated waiting period	"Extraordinary circumstances" or "good cause" based on discretion
Decision-Maker	Administrative/judicial process	Board of Pardons and Parole
Appropriate Cases	Registrants who have completed required duration and demonstrated compliance	Actual innocence, manifest injustice, exceptional rehabilitation, disproportionate consequences

Requiring the pardon process to "align" with the registry removal process eliminates the pardon power's fundamental purpose: providing an executive check on legislative and judicial determinations when individual circumstances warrant extraordinary relief. The processes serve complementary, not redundant, functions.

Procedural Anomaly and Inequity

H.B. 110 creates a procedural anomaly unique to registerable offenses. Under current law, BOPP may consider pardon applications for virtually any offense at any time, exercising discretion based on the individual circumstances of the case and the applicant. The proposed legislation singles out registerable offenses for special restrictions, requiring waiting periods before pardon eligibility.

This creates a two-tiered system where individuals convicted of murder, armed robbery, aggravated assault, and other serious violent crimes may petition for pardons at any time, while individuals convicted of registerable offenses—including many non-contact offenses and cases involving no victim—must wait years or decades before becoming eligible for pardon consideration. The result is an unequal and arbitrary distinction that treats similarly situated offenders differently based solely on the offense category.

The Rep. Clancy has not articulated a principled basis for treating registerable offenses as categorically different from all other offenses for purposes of executive clemency eligibility. This differential treatment appears to reflect political considerations rather than evidence-based risk assessment principles.

Undermining Individualized Justice

The pardon power is fundamentally premised on the executive branch's ability to provide individualized mercy and correction of injustices that rigid statutory schemes cannot address. By imposing blanket temporal restrictions on pardon eligibility for registerable offenses, H.B. 110 significantly constrains this constitutional function without demonstrating that the Board has abused its discretion.

The Rep. Clancy's statement during testimony is particularly revealing: "We're not taking away the ability for the Board to issue that pardon if they feel it's appropriate on any offense. Rather, we're just making sure that it follows that same process." This characterization is misleading. While the Board retains theoretical authority to grant pardons for registerable offenses, requiring individuals to wait 10-25 years (depending on tier) before becoming eligible eliminates the practical utility of the pardon process for addressing wrongful convictions or actual innocence cases requiring immediate relief, disproportionate sentences warranting executive clemency, cases where registrants have demonstrated exceptional rehabilitation and pose no public safety threat, and circumstances where registry requirements create severe collateral consequences disproportionate to the underlying offense.

Mischaracterization of BOPP Capacity Constraints

Most revealing during the January 2026 SOMAC, meeting, Board Member Melissa Stirba's statement about the uptick in individuals on the registry submitting petitions for early terminations has been mischaracterized to suggest a crisis of volume that H.B. 110 must address. However, no quantitative data has been provided specifying the magnitude of this "uptick." The increase must be evaluated against the baseline of 83 total petitions over five years (2015-2019), or approximately 16.6 petitions annually. Even a significant percentage increase from this low baseline would not constitute an overwhelming burden on BOPP's 48-case annual capacity. BOPP retains full discretion to deny petitions it determines lack merit, making legislative intervention unnecessary.

If the Board genuinely faces capacity constraints, the appropriate legislative response would be to provide additional resources for hearing officers and support staff, not to categorically restrict access to constitutional clemency mechanisms for an entire class of registrants.

The Board of Pardons' Position

Institutional Dynamics

Despite advocacy group criticism of Section 3's rigid pardon timelines, the Board of Pardons and Parole appears supportive of—or at minimum accepting of—these provisions. Evidence of this position includes:

- Active Participation: Board counsel participated in legislative discussions about H.B. 110 and has been "actively involved in these meetings"
- Lack of Public Opposition: The Board has not publicly objected to Section 3's mandatory timelines or raised concerns about the erosion of discretion
- Focus on Victim Impact Provisions: Board discussions have centered primarily on victim impact statement procedures (other sections of H.B. 110) rather than challenging the pardon timeline restrictions

This apparent acquiescence raises questions about whether the Board is prioritizing institutional cooperation with the Legislature over preserving its traditional discretionary authority, or whether its acceptance of these restrictions reflects a more complex political dynamic—one in which the Board may be reluctant to publicly challenge legislative mandates, even when those mandates constrain its longstanding role.

Institutional Capture and Independence

The Board's position on Section 3 raises broader questions about institutional independence:

- Political Pressure: Does the Board feel compelled to support legislative priorities to maintain good relationships or avoid conflict, even when doing so undermines its core functions?
- Expertise vs. Deference: Why would an expert body designed to make individualized clemency decisions support provisions that eliminate individualized assessment in favor of rigid timelines?

- Long-term Consequences: Is the Board considering how these restrictions will limit future Boards' ability to fulfill their constitutional and statutory responsibilities?

These questions suggest a need for greater examination of the relationship between the Board and the Legislature, and whether appropriate boundaries exist to preserve the Board's independence and expertise in post-conviction decision-making.

The Constitutional Compromise

The Utah Board of Pardons and Parole's acquiescence to H.B. 110's restrictions on its constitutional pardon authority reveals a fundamental flaw in how constitutional powers can be compromised through budgetary leverage. When an independent constitutional body depends entirely on legislative appropriations for its operational funding, the separation of powers becomes theoretical rather than practical.

The legislative record exposes what appears to be an implicit exchange. The legislature gained authority to impose 10-20 year waiting periods before the Board can "consider" sex offense pardons, effectively eliminating the Board's constitutional discretion for an entire category of offenses during these waiting periods, with no constitutional challenge or formal objection from the Board itself. In return, the Board gained removal of notification requirements that would have cost approximately $300,000 initially and $200,000 annually, preserving resources for their victim notification system and avoiding a budget crisis representing roughly 6-7% of their total annual appropriation. This is not negotiation between equal parties—it is capitulation under financial duress.

Article VII, Section 12 of the Utah Constitution vests the pardon power in the Board, the critical question is whether time-based preconditions that prevent the Board from even considering pardons constitute "regulations" or substantive limitations on the power itself. The Board had both the standing and the institutional obligation to raise this constitutional question.

Instead, Board Chair Blake Hills offered a disturbing justification during the February 2 CCJJ Commission meeting: “These are policy decisions that are a legislative prerogative to make.” This statement conflates policy decisions within the Board's constitutional authority with structural limitations on whether the Board can exercise its authority at all. The legislature does not have the prerogative to functionally eliminate a constitutional power

through waiting periods that prevent its exercise. That is not “regulation,” it is nullification by delay.

The Board's $4.4-4.5 million annual budget is not merely administrative detail—it is the lever by which the legislature compels cooperation. The threatened $300,000 cost represented a genuine institutional crisis for the Board. Faced with this pressure, the Board chose operational continuity over constitutional confrontation. The legislative strategy deserves particular scrutiny: by embedding victim notification requirements in the same bill that restricted the Board's constitutional authority, the legislature created a scenario where opposition to constitutional overreach could be characterized as opposition to victim notification.

The Board's limited resources made the notification requirements genuinely untenable, and removal of these requirements could be framed as a “compromise” that justified the Board's acceptance of constitutional restrictions. Brittany Karzen explicitly noted that the notification requirements “would actually as the first version was written, take away resources from our victim notification system that we're working on.” The removal thus became not just a cost savings, but a positive development for victim services—making constitutional surrender feel like practical wisdom.

The Board's silence on H.B. 110's constitutional implications establishes dangerous precedents. If the legislature can impose 10-20 year waiting periods on sex offense pardons without objection, what prevents similar restrictions on other offense categories? Could the legislature impose 30-year waiting periods for violent offenses? 40 years for homicide? At what point does “regulation” become elimination?

The Utah Constitution established an independent Board precisely to provide a check on legislative determinations of punishment. When the Board defers to the legislature on the scope of its own constitutional authority, this balance collapses. If constitutional bodies can be brought to heel through budget pressure, the independence guaranteed by constitutional structure becomes contingent on legislative generosity—which is to say, it ceases to be independence at all.

In the 43-year history of Utah's sex offense registry, has the Board of Pardons and Parole ever granted a pardon for [rape of a child under Utah Code § 76-5-402.1]?" If the answer is no—if there is no historical evidence that the Board has ever granted such pardons—then H.B. 110's restrictions are solving a problem that does not exist.

The legislation would reflect a focus on theoretical concerns rather than evidence-based policymaking, imposing restrictions on exercises of discretion that have not been documented in practice. If the Board has historically exercised appropriate restraint in this area without statutory waiting periods, why does the legislature need to impose them now? The most troubling answer is that H.B. 110 is not about correcting Board overreach—it is about the legislature asserting dominance over a constitutional body whose independence it finds inconvenient.

Constitutional structure exists to prevent exactly this kind of compromise. The Board of Pardons and Parole's constitutional independence was not granted as a privilege that could be traded for operational funding. It was established as a structural protection against legislative or executive overreach in matters of clemency and mercy. By agreeing to limitations on when it can exercise its pardon power in exchange for relief from notification costs, the Board has made a significant concession.

The immediate operational relief may feel necessary, but the long-term cost—the establishment of legislative supremacy over a constitutional power that was meant to be independent—will compound far beyond the $300,000 saved. A constitutional body that will not defend its own constitutional authority has already ceased to be independent, regardless of what the constitution says.

Substantive Policy Concerns

Absence of Documented Public Safety Concerns

Throughout the legislative process, neither Rep. Clancy nor supporting stakeholders have identified specific cases where BOPP granted pardons that resulted in documented public safety failures, recidivism data for registrants removed from the registry via pardon versus other removal mechanisms, evidence that early registry removal through pardon correlates with increased recidivism risk, or victim advocacy organization testimony documenting harm caused by the current pardon process.

Without such evidence, the proposed restrictions appear to address a hypothetical problem rather than a demonstrated threat to public safety. In effect, the bill substitutes conjecture and perception for data-driven policymaking, raising questions about whether the legislation serves public safety or political signaling. This absence of evidence weakens any justification for rigid waiting periods that limit the Board’s discretion.

Expedited Passage Without Adequate Deliberation

The House Judiciary Committee's consideration of H.B. 110 on February 2, 2026, exemplifies concerning legislative process deficiencies. Committee members raised no substantive questions about the registry removal provisions. No data or empirical analysis was requested to support the Rep. Clancy's claims. Public comment was limited to supportive testimony from BOPP, CCJJ, Victim Services Commission, and prosecutors. One member of the public (Albert Kramer) attempted to provide testimony via Zoom but was prevented from doing so due to camera technical difficulties. The bill passed unanimously with no dissenting or questioning voices.

This brief consideration of legislation that significantly restricts executive clemency discretion for an entire class of registrants raises serious concerns about whether the Committee fulfilled its deliberative responsibilities. Moreover, Substitute #1 was released less than 24 hours before the committee meeting. Substitute #2 was released less than an hour before the meeting commenced. Committee rules for public comment forbid the discussion of previous substitutions. The compressed timeline and rules limiting discussion of substitutes suggest that stakeholders were prevented from providing informed comment on the bill's evolution. These procedural shortcuts are particularly problematic given the substantive nature of the legislation.

Potential Unintended Consequences

By imposing rigid waiting periods and conflating pardon eligibility with registry timelines, H.B. 110 risks unintended consequences that could undermine both public safety and rehabilitative goals. Individuals demonstrating genuine rehabilitation may face prolonged punishment, reducing incentives for positive behavioral change and participation in programs designed to lower recidivism.

Additionally, the bill may disproportionately impact low-risk or non-contact registrants, perpetuating lifetime stigma without evidence of enhanced safety, while consuming Board resources with cases delayed rather than resolved. Over time, these effects could strain the pardon system, erode trust in criminal justice institutions, and shift focus away from evidence-based strategies that more effectively balance accountability, rehabilitation, and community protection. Such outcomes risk creating a system where policy prioritizes rigid timelines over individualized assessment, ultimately undermining both justice and public confidence.

Conclusion

H.B. 110 represents policy-making in the absence of evidence. The legislation imposes significant restrictions on executive clemency authority without documenting the problem it purports to solve, providing data supporting the Rep. Clancy's claims, demonstrating that the Board has abused its discretion, establishing that restrictions will enhance public safety, or engaging meaningfully with affected populations and their advocates.

The existing data contradicts the legislative premise, showing that the Board already exercises substantial restraint with an 83% denial rate for early registry removal petitions. Multiple state agencies have confirmed they do not possess data that would support the Rep. Clancy's characterizations.

Most fundamentally, H.B. 110 misconstrues the constitutional purpose of executive clemency. The pardon power exists precisely to provide relief in extraordinary circumstances that rigid statutory schemes cannot accommodate. By requiring the pardon process to mirror the registry removal process, the legislation eliminates the discretionary, individualized function that justifies executive clemency as a separate branch power.

Until comprehensive data and an independent study of Utah's registry removal and pardon processes, including recidivism outcomes, are conducted, H.B. 110 does not meet the standards of evidence-based policymaking.