

1                   **PUBLIC EDUCATION RECODIFICATION - CROSS**

2                                   **REFERENCES AND REPEALS**

3   2018 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Ann Millner**

6                                   House Sponsor: Val L. Peterson

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7

8 **LONG TITLE**

9 **Committee Note:**

10           The Education Interim Committee recommended this bill.

11 **General Description:**

12           This bill repeals and makes technical cross reference changes to provisions related to  
13 the public education code.

14 **Highlighted Provisions:**

15           This bill:

- 16           ▶ repeals outdated provisions related to the public education code;
- 17           ▶ makes technical cross reference changes to provisions related to the public  
18 education code; and
- 19           ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21           None

22 **Other Special Clauses:**

23           This bill provides a special effective date.

24           This bill provides revisor instructions.

25 **Utah Code Sections Affected:**

26 AMENDS:

27           **9-9-104.6**, as last amended by Laws of Utah 2015, Chapter 53



28 [10-9a-103](#), as last amended by Laws of Utah 2017, Chapters 17 and 84  
29 [10-9a-305](#), as last amended by Laws of Utah 2013, Chapter 200  
30 [11-13-302](#), as last amended by Laws of Utah 2015, Chapter 287  
31 [11-13-310](#), as last amended by Laws of Utah 2003, Chapter 21  
32 [11-14-202](#), as last amended by Laws of Utah 2017, Chapters 157, 251, 267 and last  
33 amended by Coordination Clause, Laws of Utah 2017, Chapter 267  
34 [11-17-20](#), as last amended by Laws of Utah 2012, Chapters 201 and 347  
35 [11-36a-102](#), as last amended by Laws of Utah 2014, Chapter 363  
36 [11-36a-202](#), as last amended by Laws of Utah 2016, Third Special Session, Chapter 2  
37 [11-44-201](#), as last amended by Laws of Utah 2015, Chapter 181  
38 [11-49-102](#), as last amended by Laws of Utah 2016, Chapter 350  
39 [13-22-8](#), as last amended by Laws of Utah 2017, Chapter 98  
40 [17-27a-103](#), as last amended by Laws of Utah 2017, Chapter 84  
41 [17-27a-305](#), as last amended by Laws of Utah 2015, Chapter 465  
42 [20A-1-203](#), as last amended by Laws of Utah 2015, Chapters 111 and 352  
43 [20A-14-206](#), as enacted by Laws of Utah 1995, Chapter 1  
44 [26-1-17.5 \(Superseded 07/01/18\)](#), as last amended by Laws of Utah 2008, Chapter 382  
45 [26-1-17.5 \(Effective 07/01/18\)](#), as last amended by Laws of Utah 2017, Chapter 344  
46 [26-7-9 \(Effective 07/01/18\)](#), as enacted by Laws of Utah 2017, Chapter 344  
47 [26-10-6](#), as last amended by Laws of Utah 2017, Chapter 351  
48 [26-10-9 \(Superseded 07/01/18\)](#), as enacted by Laws of Utah 2011, Chapter 147  
49 [26-10-9 \(Effective 07/01/18\)](#), as last amended by Laws of Utah 2017, Chapter 344  
50 [26-10-10](#), as enacted by Laws of Utah 2013, Chapter 45  
51 [26-10-11](#), as last amended by Laws of Utah 2015, Chapter 16  
52 [26-39-402 \(Superseded 07/01/18\)](#), as renumbered and amended by Laws of Utah 2008,  
53 Chapter 111  
54 [26-39-402 \(Effective 07/01/18\)](#), as last amended by Laws of Utah 2017, Chapter 344  
55 [26-41-106](#), as last amended by Laws of Utah 2015, Chapter 332  
56 [30-1-9](#), as last amended by Laws of Utah 2000, Chapter 1  
57 [32B-2-304](#), as last amended by Laws of Utah 2017, Chapter 455  
58 [34A-2-104.5](#), as enacted by Laws of Utah 2016, Chapter 390

59           **35A-1-102**, as last amended by Laws of Utah 2016, Chapter 226  
60           **35A-3-304**, as last amended by Laws of Utah 2016, Chapter 105  
61           **35A-9-401**, as enacted by Laws of Utah 2016, Chapter 336  
62           **35A-13-403**, as renumbered and amended by Laws of Utah 2016, Chapter 271  
63           **36-22-2**, as last amended by Laws of Utah 2016, Chapter 63  
64           **41-1a-422**, as last amended by Laws of Utah 2017, Chapters 107, 194, and 383  
65           **41-6a-303**, as last amended by Laws of Utah 2010, Chapter 299  
66           **41-6a-1307**, as last amended by Laws of Utah 2015, Chapter 412  
67           **41-6a-1309**, as enacted by Laws of Utah 2011, Chapter 296  
68           **49-12-102**, as last amended by Laws of Utah 2017, Chapter 325  
69           **49-12-202**, as last amended by Laws of Utah 2014, Chapters 15, 201, and 363  
70           **49-12-701**, as last amended by Laws of Utah 2016, Chapters 144 and 310  
71           **49-13-102**, as last amended by Laws of Utah 2017, Chapter 325  
72           **49-13-202**, as last amended by Laws of Utah 2014, Chapters 15, 201, and 363  
73           **49-13-701**, as last amended by Laws of Utah 2016, Chapters 144 and 310  
74           **49-22-102**, as last amended by Laws of Utah 2017, Chapter 325  
75           **49-22-202**, as last amended by Laws of Utah 2014, Chapter 363  
76           **51-2a-201.5**, as last amended by Laws of Utah 2017, Chapter 11  
77           **51-7-13**, as last amended by Laws of Utah 2005, Chapter 178  
78           **52-4-103**, as last amended by Laws of Utah 2017, Chapters 196, 277, and 441  
79           **52-4-209**, as last amended by Laws of Utah 2014, Chapter 363  
80           **53-3-104**, as last amended by Laws of Utah 2014, Chapter 85  
81           **53-3-505.5**, as enacted by Laws of Utah 2003, Chapter 121  
82           **53-7-103**, as last amended by Laws of Utah 2011, Chapter 340  
83           **53-10-202**, as last amended by Laws of Utah 2017, Chapter 296  
84           **53-10-203**, as renumbered and amended by Laws of Utah 1998, Chapter 263  
85           **53B-1-109**, as last amended by Laws of Utah 2016, Chapter 200  
86           **53B-1-114**, as enacted by Laws of Utah 2017, Chapter 382  
87           **53B-2a-106**, as last amended by Laws of Utah 2017, Chapter 382  
88           **53B-10-101**, as last amended by Laws of Utah 2006, Chapter 88  
89           **53B-16-108**, as enacted by Laws of Utah 2015, Chapter 404

- 90 **53B-16-404**, as last amended by Laws of Utah 2015, Chapter 389
- 91 **53C-1-203**, as last amended by Laws of Utah 2014, Chapter 426
- 92 **53D-1-102**, as last amended by Laws of Utah 2016, Chapter 144
- 93 **53D-1-403**, as last amended by Laws of Utah 2017, Chapter 179
- 94 **58-11a-302**, as last amended by Laws of Utah 2017, Chapter 342
- 95 **58-41-4**, as last amended by Laws of Utah 2016, Chapter 144
- 96 **58-61-307**, as last amended by Laws of Utah 2013, Chapter 16
- 97 **59-2-102**, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368
- 98 **59-2-918.6**, as last amended by Laws of Utah 2016, Chapter 98
- 99 **59-2-919**, as last amended by Laws of Utah 2016, Chapters 341 and 367
- 100 **59-2-924**, as last amended by Laws of Utah 2017, Chapter 390
- 101 **59-2-926**, as last amended by Laws of Utah 2016, Chapter 367
- 102 **59-2-1101**, as last amended by Laws of Utah 2015, Chapters 129 and 261
- 103 **59-10-1018**, as last amended by Laws of Utah 2012, Chapter 295
- 104 **59-10-1307**, as last amended by Laws of Utah 2016, Chapter 144
- 105 **59-10-1318**, as last amended by Laws of Utah 2016, Chapter 172
- 106 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 107 **59-28-103**, as enacted by Laws of Utah 2017, Chapter 166
- 108 **62A-2-108.1**, as last amended by Laws of Utah 2007, Chapter 81
- 109 **62A-4a-202.6**, as last amended by Laws of Utah 2012, Chapter 293
- 110 **62A-4a-409**, as last amended by Laws of Utah 2017, Chapter 459
- 111 **62A-4a-606**, as last amended by Laws of Utah 2017, Chapter 148
- 112 **62A-4a-1002**, as last amended by Laws of Utah 2017, Chapter 55
- 113 **62A-5a-102**, as last amended by Laws of Utah 2016, Chapters 144 and 271
- 114 **62A-5a-105**, as last amended by Laws of Utah 2016, Chapter 271
- 115 **62A-15-1101**, as last amended by Laws of Utah 2017, Chapters 296 and 346
- 116 **63A-3-106**, as last amended by Laws of Utah 2017, Chapter 196
- 117 **63A-3-402**, as last amended by Laws of Utah 2015, Chapters 215, 226, and 283
- 118 **63A-4-204**, as last amended by Laws of Utah 2016, Chapter 189
- 119 **63A-4-204.5**, as last amended by Laws of Utah 2016, Chapter 189
- 120 **63G-2-103**, as last amended by Laws of Utah 2017, Chapters 196 and 441

121 **63G-2-301**, as last amended by Laws of Utah 2014, Chapter 373  
122 **63G-2-302**, as last amended by Laws of Utah 2017, Chapters 168 and 282  
123 **63G-7-102**, as last amended by Laws of Utah 2017, Chapter 300  
124 **63I-1-251**, as enacted by Laws of Utah 2015, Chapter 275  
125 **63I-1-253**, as last amended by Laws of Utah 2017, Chapters 166 and 181  
126 **63I-2-253**, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381,  
127 386, and 468  
128 **63I-4a-102**, as last amended by Laws of Utah 2017, Chapters 345 and 363  
129 **63J-1-206**, as last amended by Laws of Utah 2017, First Special Session, Chapter 1  
130 **63J-1-220**, as last amended by Laws of Utah 2017, Chapter 173  
131 **63J-1-602.3**, as last amended by Laws of Utah 2017, Chapters 396 and 423  
132 **63J-3-102**, as last amended by Laws of Utah 2013, Chapter 310  
133 **63J-3-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
134 **63J-7-102**, as last amended by Laws of Utah 2017, Chapters 181, 345, and 363  
135 **63N-3-110**, as renumbered and amended by Laws of Utah 2015, Chapter 283  
136 **63N-12-202**, as last amended by Laws of Utah 2017, Chapters 219 and 353  
137 **63N-12-213**, as last amended by Laws of Utah 2017, Chapter 382  
138 **64-13-42**, as last amended by Laws of Utah 2012, Chapter 369  
139 **67-1a-11**, as enacted by Laws of Utah 2006, Chapter 142  
140 **67-8-3**, as last amended by Laws of Utah 2006, Chapter 139  
141 **67-16-3**, as last amended by Laws of Utah 2017, Chapter 196  
142 **67-16-4**, as last amended by Laws of Utah 2014, Chapter 196  
143 **67-19-15**, as last amended by Laws of Utah 2017, Chapter 463  
144 **75-5-201**, as last amended by Laws of Utah 1998, Chapter 124  
145 **76-5-415**, as enacted by Laws of Utah 2014, Chapter 135  
146 **76-10-105**, as last amended by Laws of Utah 2017, Chapter 330  
147 **77-37-4**, as last amended by Laws of Utah 2015, Chapter 311  
148 **78A-6-103 (Superseded 07/01/18)**, as last amended by Laws of Utah 2012, Chapter  
149 316  
150 **78A-6-103 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 330  
151 **78A-6-105**, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401

152 **78A-6-112 (Superseded 07/01/18)**, as renumbered and amended by Laws of Utah  
153 2008, Chapter 3  
154 **78A-6-112 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 330  
155 **78A-6-319**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
156 **78A-6-602**, as last amended by Laws of Utah 2017, Chapter 330  
157 **78A-6-603**, as last amended by Laws of Utah 2017, Chapter 330  
158 **78A-6-1001**, as last amended by Laws of Utah 2010, Chapter 276  
159 **78A-6-1203**, as last amended by Laws of Utah 2017, Chapter 330

160 REPEALS:

161 **53A-1-414**, as enacted by Laws of Utah 2016, Chapter 217  
162 **53A-1-901**, as last amended by Laws of Utah 2015, Chapter 415  
163 **53A-1-904**, as enacted by Laws of Utah 2005, First Special Session, Chapter 2  
164 **53A-1-1101**, as repealed and reenacted by Laws of Utah 2017, Chapter 378  
165 **53A-1-1201**, as enacted by Laws of Utah 2015, Chapter 449  
166 **53A-1-1301**, as enacted by Laws of Utah 2015, Chapter 443  
167 **53A-1-1401**, as enacted by Laws of Utah 2016, Chapter 221  
168 **53A-1-1501**, as enacted by Laws of Utah 2016, Chapter 318  
169 **53A-1a-101**, as enacted by Laws of Utah 1992, Chapter 47  
170 **53A-1a-501**, as enacted by Laws of Utah 1998, Chapter 231  
171 **53A-1a-701**, as enacted by Laws of Utah 2005, Chapter 35  
172 **53A-1b-101**, as enacted by Laws of Utah 2014, Chapter 304  
173 **53A-1b-201**, as enacted by Laws of Utah 2016, Chapter 336  
174 **53A-2-401**, as enacted by Laws of Utah 2006, Chapter 339  
175 **53A-4-301**, as enacted by Laws of Utah 2016, Chapter 331  
176 **53A-6-101**, as repealed and reenacted by Laws of Utah 1999, Chapter 108  
177 **53A-8a-101**, as enacted by Laws of Utah 2012, Chapter 425  
178 **53A-11-1201**, as enacted by Laws of Utah 2007, Chapter 114  
179 **53A-11-1501**, as last amended by Laws of Utah 2015, Chapter 442  
180 **53A-11-1601**, as enacted by Laws of Utah 2016, Chapter 165  
181 **53A-11a-101**, as enacted by Laws of Utah 2008, Chapter 197  
182 **53A-15-1001**, as enacted by Laws of Utah 2006, Chapter 227

183 [53A-15-1201](#), as enacted by Laws of Utah 2011, Chapter 419  
 184 [53A-15-1501](#), as enacted by Laws of Utah 2015, Chapter 389  
 185 [53A-15-1701](#), as enacted by Laws of Utah 2016, Chapter 200  
 186 [53A-15-1801](#), as enacted by Laws of Utah 2016, Chapter 347  
 187 [53A-15-1901](#), as enacted by Laws of Utah 2016, Chapter 320  
 188 [53A-15-2001](#), as enacted by Laws of Utah 2017, Chapter 72  
 189 [53A-17a-101](#), as last amended by Laws of Utah 1999, Chapter 21  
 190 [53A-20b-101](#), as last amended by Laws of Utah 2012, Chapter 201  
 191 [53A-21-101](#), as repealed and reenacted by Laws of Utah 1996, Chapter 326  
 192 [53A-25a-101](#), as enacted by Laws of Utah 1994, Chapter 280  
 193 [53A-25b-101](#), as enacted by Laws of Utah 2009, Chapter 294  
 194 [53A-28-101](#), as enacted by Laws of Utah 1996, Chapter 62  
 195 [53A-30-101](#), as enacted by Laws of Utah 2014, Chapter 433  
 196 [53A-31-101](#), as enacted by Laws of Utah 2015, Chapter 53  
 197 [53A-31-401](#), as enacted by Laws of Utah 2016, Chapter 63

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

200 Section 1. Section [9-9-104.6](#) is amended to read:

201 **9-9-104.6. Participation of state agencies in meetings with tribal leaders --**

202 **Contact information.**

203 (1) For at least three of the joint meetings described in Subsection [9-9-104.5\(2\)\(a\)](#), the  
 204 division shall coordinate with representatives of tribal governments and the entities listed in  
 205 Subsection (2) to provide for the broadest participation possible in the joint meetings.

206 (2) The following may participate in all meetings described in Subsection (1):

207 (a) the chairs of the Native American Legislative Liaison Committee created in Section

208 [36-22-1](#);

209 (b) the governor or the governor's designee;

210 (c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance  
 211 with Section [26-7-2.5](#); or

212 (ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a  
 213 representative of the Department of Health appointed by the executive director of the

214 Department of Health;

215 (d) the American Indian-Alaskan Native Public Education Liaison appointed in  
216 accordance with Section ~~[53A-31-201]~~ 53E-10-402; and

217 (e) a representative appointed by the chief administrative officer of the following:

218 (i) the Department of Human Services;

219 (ii) the Department of Natural Resources;

220 (iii) the Department of Workforce Services;

221 (iv) the Governor's Office of Economic Development;

222 (v) the State Board of Education; and

223 (vi) the State Board of Regents.

224 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

225 (i) designate the name of a contact person for that agency that can assist in coordinating  
226 the efforts of state and tribal governments in meeting the needs of the Native Americans  
227 residing in the state; and

228 (ii) notify the division:

229 (A) who is the designated contact person described in Subsection (3)(a)(i); and

230 (B) of any change in who is the designated contact person described in Subsection  
231 (3)(a)(i).

232 (b) This Subsection (3) applies to:

233 (i) the Department of Agriculture and Food;

234 (ii) the Department of Heritage and Arts;

235 (iii) the Department of Corrections;

236 (iv) the Department of Environmental Quality;

237 (v) the Department of Public Safety;

238 (vi) the Department of Transportation;

239 (vii) the Office of the Attorney General;

240 (viii) the State Tax Commission; and

241 (ix) any agency described in Subsections (2)(c) through (e).

242 (c) At the request of the division, a contact person listed in Subsection (3)(b) may  
243 participate in a meeting described in Subsection (1).

244 (4) (a) A participant under this section who is not a legislator may not receive

245 compensation or benefits for the participant's service, but may receive per diem and travel  
246 expenses as allowed in:

- 247 (i) Section 63A-3-106;  
248 (ii) Section 63A-3-107; and  
249 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and  
250 63A-3-107.

251 (b) Compensation and expenses of a participant who is a legislator are governed by  
252 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

253 Section 2. Section 10-9a-103 is amended to read:

254 **10-9a-103. Definitions.**

255 As used in this chapter:

256 (1) "Affected entity" means a county, municipality, local district, special service  
257 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
258 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified  
259 public utility, property owner, property owners association, or the Utah Department of  
260 Transportation, if:

261 (a) the entity's services or facilities are likely to require expansion or significant  
262 modification because of an intended use of land;

263 (b) the entity has filed with the municipality a copy of the entity's general or long-range  
264 plan; or

265 (c) the entity has filed with the municipality a request for notice during the same  
266 calendar year and before the municipality provides notice to an affected entity in compliance  
267 with a requirement imposed under this chapter.

268 (2) "Appeal authority" means the person, board, commission, agency, or other body  
269 designated by ordinance to decide an appeal of a decision of a land use application or a  
270 variance.

271 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
272 residential property if the sign is designed or intended to direct attention to a business, product,  
273 or service that is not sold, offered, or existing on the property where the sign is located.

274 (4) (a) "Charter school" means:

275 (i) an operating charter school;

276 (ii) a charter school applicant that has its application approved by a charter school  
277 authorizer in accordance with [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]  
278 Title 53G, Chapter 5, Part 3, Charter School Authorization; or

279 (iii) an entity that is working on behalf of a charter school or approved charter  
280 applicant to develop or construct a charter school building.

281 (b) "Charter school" does not include a therapeutic school.

282 (5) "Conditional use" means a land use that, because of its unique characteristics or  
283 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be  
284 compatible in some areas or may be compatible only if certain conditions are required that  
285 mitigate or eliminate the detrimental impacts.

286 (6) "Constitutional taking" means a governmental action that results in a taking of  
287 private property so that compensation to the owner of the property is required by the:

288 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

289 (b) Utah Constitution Article I, Section 22.

290 (7) "Culinary water authority" means the department, agency, or public entity with  
291 responsibility to review and approve the feasibility of the culinary water system and sources for  
292 the subject property.

293 (8) "Development activity" means:

294 (a) any construction or expansion of a building, structure, or use that creates additional  
295 demand and need for public facilities;

296 (b) any change in use of a building or structure that creates additional demand and need  
297 for public facilities; or

298 (c) any change in the use of land that creates additional demand and need for public  
299 facilities.

300 (9) (a) "Disability" means a physical or mental impairment that substantially limits one  
301 or more of a person's major life activities, including a person having a record of such an  
302 impairment or being regarded as having such an impairment.

303 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
304 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
305 802.

306 (10) "Educational facility":

- 307 (a) means:
- 308 (i) a school district's building at which pupils assemble to receive instruction in a  
309 program for any combination of grades from preschool through grade 12, including  
310 kindergarten and a program for children with disabilities;
- 311 (ii) a structure or facility:
- 312 (A) located on the same property as a building described in Subsection (10)(a)(i); and  
313 (B) used in support of the use of that building; and
- 314 (iii) a building to provide office and related space to a school district's administrative  
315 personnel; and
- 316 (b) does not include:
- 317 (i) land or a structure, including land or a structure for inventory storage, equipment  
318 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
- 319 (A) not located on the same property as a building described in Subsection (10)(a)(i);  
320 and
- 321 (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
- 322 (ii) a therapeutic school.
- 323 (11) "Fire authority" means the department, agency, or public entity with responsibility  
324 to review and approve the feasibility of fire protection and suppression services for the subject  
325 property.
- 326 (12) "Flood plain" means land that:
- 327 (a) is within the 100-year flood plain designated by the Federal Emergency  
328 Management Agency; or
- 329 (b) has not been studied or designated by the Federal Emergency Management Agency  
330 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because  
331 the land has characteristics that are similar to those of a 100-year flood plain designated by the  
332 Federal Emergency Management Agency.
- 333 (13) "General plan" means a document that a municipality adopts that sets forth general  
334 guidelines for proposed future development of the land within the municipality.
- 335 (14) "Geologic hazard" means:
- 336 (a) a surface fault rupture;
- 337 (b) shallow groundwater;

- 338 (c) liquefaction;
- 339 (d) a landslide;
- 340 (e) a debris flow;
- 341 (f) unstable soil;
- 342 (g) a rock fall; or
- 343 (h) any other geologic condition that presents a risk:
- 344 (i) to life;
- 345 (ii) of substantial loss of real property; or
- 346 (iii) of substantial damage to real property.
- 347 (15) "Historic preservation authority" means a person, board, commission, or other
- 348 body designated by a legislative body to:
  - 349 (a) recommend land use regulations to preserve local historic districts or areas; and
  - 350 (b) administer local historic preservation land use regulations within a local historic
  - 351 district or area.
- 352 (16) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 353 meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other
- 354 utility system.
- 355 (17) "Identical plans" means building plans submitted to a municipality that:
  - 356 (a) are clearly marked as "identical plans";
  - 357 (b) are substantially identical to building plans that were previously submitted to and
  - 358 reviewed and approved by the municipality; and
  - 359 (c) describe a building that:
    - 360 (i) is located on land zoned the same as the land on which the building described in the
    - 361 previously approved plans is located;
    - 362 (ii) is subject to the same geological and meteorological conditions and the same law
    - 363 as the building described in the previously approved plans;
    - 364 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
    - 365 and approved by the municipality; and
    - 366 (iv) does not require any additional engineering or analysis.
- 367 (18) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 368 Impact Fees Act.

369 (19) "Improvement completion assurance" means a surety bond, letter of credit,  
370 financial institution bond, cash, assignment of rights, lien, or other equivalent security required  
371 by a municipality to guaranty the proper completion of landscaping or an infrastructure  
372 improvement required as a condition precedent to:

373 (a) recording a subdivision plat; or

374 (b) development of a commercial, industrial, mixed use, or multifamily project.

375 (20) "Improvement warranty" means an applicant's unconditional warranty that the  
376 applicant's installed and accepted landscaping or infrastructure improvement:

377 (a) complies with the municipality's written standards for design, materials, and  
378 workmanship; and

379 (b) will not fail in any material respect, as a result of poor workmanship or materials,  
380 within the improvement warranty period.

381 (21) "Improvement warranty period" means a period:

382 (a) no later than one year after a municipality's acceptance of required landscaping; or

383 (b) no later than one year after a municipality's acceptance of required infrastructure,  
384 unless the municipality:

385 (i) determines for good cause that a one-year period would be inadequate to protect the  
386 public health, safety, and welfare; and

387 (ii) has substantial evidence, on record:

388 (A) of prior poor performance by the applicant; or

389 (B) that the area upon which the infrastructure will be constructed contains suspect soil  
390 and the municipality has not otherwise required the applicant to mitigate the suspect soil.

391 (22) "Infrastructure improvement" means permanent infrastructure that an applicant  
392 must install:

393 (a) pursuant to published installation and inspection specifications for public  
394 improvements; and

395 (b) as a condition of:

396 (i) recording a subdivision plat; or

397 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily  
398 project.

399 (23) "Internal lot restriction" means a platted note, platted demarcation, or platted

400 designation that:

401 (a) runs with the land; and

402 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on  
403 the plat; or

404 (ii) designates a development condition that is enclosed within the perimeter of a lot  
405 described on the plat.

406 (24) "Land use applicant" means a property owner, or the property owner's designee,  
407 who submits a land use application regarding the property owner's land.

408 (25) "Land use application":

409 (a) means an application that is:

410 (i) required by a municipality; and

411 (ii) submitted by a land use applicant to obtain a land use decision; and

412 (b) does not mean an application to enact, amend, or repeal a land use regulation.

413 (26) "Land use authority" means:

414 (a) a person, board, commission, agency, or body, including the local legislative body,  
415 designated by the local legislative body to act upon a land use application; or

416 (b) if the local legislative body has not designated a person, board, commission,  
417 agency, or body, the local legislative body.

418 (27) "Land use decision" means a final action of a land use authority or appeal  
419 authority regarding:

420 (a) a land use permit;

421 (b) a land use application; or

422 (c) the enforcement of a land use regulation, land use permit, or development  
423 agreement.

424 (28) "Land use permit" means a permit issued by a land use authority.

425 (29) "Land use regulation":

426 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that  
427 governs the use or development of land; and

428 (b) does not include:

429 (i) a general plan;

430 (ii) a land use decision of the legislative body acting as the land use authority, even if

- 431 the decision is expressed in a resolution or ordinance; or
- 432 (iii) a temporary revision to an engineering specification that does not materially:
- 433 (A) increase a land use applicant's cost of development compared to the existing
- 434 specification; or
- 435 (B) impact a land use applicant's use of land.
- 436 (30) "Legislative body" means the municipal council.
- 437 (31) "Local district" means an entity under Title 17B, Limited Purpose Local
- 438 Government Entities - Local Districts, and any other governmental or quasi-governmental
- 439 entity that is not a county, municipality, school district, or the state.
- 440 (32) "Local historic district or area" means a geographically definable area that:
- 441 (a) contains any combination of buildings, structures, sites, objects, landscape features,
- 442 archeological sites, or works of art that contribute to the historic preservation goals of a
- 443 legislative body; and
- 444 (b) is subject to land use regulations to preserve the historic significance of the local
- 445 historic district or area.
- 446 (33) "Lot line adjustment" means the relocation of the property boundary line in a
- 447 subdivision between two adjoining lots with the consent of the owners of record.
- 448 (34) "Moderate income housing" means housing occupied or reserved for occupancy
- 449 by households with a gross household income equal to or less than 80% of the median gross
- 450 income for households of the same size in the county in which the city is located.
- 451 (35) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
- 452 spent and expenses incurred in:
- 453 (a) verifying that building plans are identical plans; and
- 454 (b) reviewing and approving those minor aspects of identical plans that differ from the
- 455 previously reviewed and approved building plans.
- 456 (36) "Noncomplying structure" means a structure that:
- 457 (a) legally existed before its current land use designation; and
- 458 (b) because of one or more subsequent land use ordinance changes, does not conform
- 459 to the setback, height restrictions, or other regulations, excluding those regulations, which
- 460 govern the use of land.
- 461 (37) "Nonconforming use" means a use of land that:

462 (a) legally existed before its current land use designation;

463 (b) has been maintained continuously since the time the land use ordinance governing  
464 the land changed; and

465 (c) because of one or more subsequent land use ordinance changes, does not conform  
466 to the regulations that now govern the use of the land.

467 (38) "Official map" means a map drawn by municipal authorities and recorded in a  
468 county recorder's office that:

469 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
470 highways and other transportation facilities;

471 (b) provides a basis for restricting development in designated rights-of-way or between  
472 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
473 the land; and

474 (c) has been adopted as an element of the municipality's general plan.

475 (39) "Parcel boundary adjustment" means a recorded agreement between owners of  
476 adjoining properties adjusting their mutual boundary if:

477 (a) no additional parcel is created; and

478 (b) each property identified in the agreement is unsubdivided land, including a  
479 remainder of subdivided land.

480 (40) "Person" means an individual, corporation, partnership, organization, association,  
481 trust, governmental agency, or any other legal entity.

482 (41) "Plan for moderate income housing" means a written document adopted by a city  
483 legislative body that includes:

484 (a) an estimate of the existing supply of moderate income housing located within the  
485 city;

486 (b) an estimate of the need for moderate income housing in the city for the next five  
487 years as revised biennially;

488 (c) a survey of total residential land use;

489 (d) an evaluation of how existing land uses and zones affect opportunities for moderate  
490 income housing; and

491 (e) a description of the city's program to encourage an adequate supply of moderate  
492 income housing.

493 (42) "Plat" means a map or other graphical representation of lands being laid out and  
494 prepared in accordance with Section [10-9a-603](#), [17-23-17](#), or [57-8-13](#).

495 (43) "Potential geologic hazard area" means an area that:

496 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
497 relevant map or report as needing further study to determine the area's potential for geologic  
498 hazard; or

499 (b) has not been studied by the Utah Geological Survey or a county geologist but  
500 presents the potential of geologic hazard because the area has characteristics similar to those of  
501 a designated geologic hazard area.

502 (44) "Public agency" means:

503 (a) the federal government;

504 (b) the state;

505 (c) a county, municipality, school district, local district, special service district, or other  
506 political subdivision of the state; or

507 (d) a charter school.

508 (45) "Public hearing" means a hearing at which members of the public are provided a  
509 reasonable opportunity to comment on the subject of the hearing.

510 (46) "Public meeting" means a meeting that is required to be open to the public under  
511 Title 52, Chapter 4, Open and Public Meetings Act.

512 (47) "Receiving zone" means an area of a municipality that the municipality  
513 designates, by ordinance, as an area in which an owner of land may receive a transferable  
514 development right.

515 (48) "Record of survey map" means a map of a survey of land prepared in accordance  
516 with Section [17-23-17](#).

517 (49) "Residential facility for persons with a disability" means a residence:

518 (a) in which more than one person with a disability resides; and

519 (b) (i) which is licensed or certified by the Department of Human Services under Title  
520 62A, Chapter 2, Licensure of Programs and Facilities; or

521 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
522 21, Health Care Facility Licensing and Inspection Act.

523 (50) "Rules of order and procedure" means a set of rules that govern and prescribe in a

524 public meeting:

525 (a) parliamentary order and procedure;

526 (b) ethical behavior; and

527 (c) civil discourse.

528 (51) "Sanitary sewer authority" means the department, agency, or public entity with  
529 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
530 wastewater systems.

531 (52) "Sending zone" means an area of a municipality that the municipality designates,  
532 by ordinance, as an area from which an owner of land may transfer a transferable development  
533 right.

534 (53) "Specified public agency" means:

535 (a) the state;

536 (b) a school district; or

537 (c) a charter school.

538 (54) "Specified public utility" means an electrical corporation, gas corporation, or  
539 telephone corporation, as those terms are defined in Section [54-2-1](#).

540 (55) "State" includes any department, division, or agency of the state.

541 (56) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
542 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
543 way.

544 (57) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be  
545 divided into two or more lots, parcels, sites, units, plots, or other division of land for the  
546 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
547 installment plan or upon any and all other plans, terms, and conditions.

548 (b) "Subdivision" includes:

549 (i) the division or development of land whether by deed, metes and bounds description,  
550 devise and testacy, map, plat, or other recorded instrument; and

551 (ii) except as provided in Subsection (57)(c), divisions of land for residential and  
552 nonresidential uses, including land used or to be used for commercial, agricultural, and  
553 industrial purposes.

554 (c) "Subdivision" does not include:

555 (i) a bona fide division or partition of agricultural land for the purpose of joining one of  
556 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if  
557 neither the resulting combined parcel nor the parcel remaining from the division or partition  
558 violates an applicable land use ordinance;

559 (ii) a recorded agreement between owners of adjoining unsubdivided properties  
560 adjusting their mutual boundary if:

561 (A) no new lot is created; and

562 (B) the adjustment does not violate applicable land use ordinances;

563 (iii) a recorded document, executed by the owner of record:

564 (A) revising the legal description of more than one contiguous unsubdivided parcel of  
565 property into one legal description encompassing all such parcels of property; or

566 (B) joining a subdivided parcel of property to another parcel of property that has not  
567 been subdivided, if the joinder does not violate applicable land use ordinances;

568 (iv) a recorded agreement between owners of adjoining subdivided properties adjusting  
569 their mutual boundary if:

570 (A) no new dwelling lot or housing unit will result from the adjustment; and

571 (B) the adjustment will not violate any applicable land use ordinance;

572 (v) a bona fide division or partition of land by deed or other instrument where the land  
573 use authority expressly approves in writing the division in anticipation of further land use  
574 approvals on the parcel or parcels; or

575 (vi) a parcel boundary adjustment.

576 (d) The joining of a subdivided parcel of property to another parcel of property that has  
577 not been subdivided does not constitute a subdivision under this Subsection (57) as to the  
578 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's  
579 subdivision ordinance.

580 (58) "Suspect soil" means soil that has:

581 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
582 3% swell potential;

583 (b) bedrock units with high shrink or swell susceptibility; or

584 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum  
585 commonly associated with dissolution and collapse features.

- 586 (59) "Therapeutic school" means a residential group living facility:
- 587 (a) for four or more individuals who are not related to:
- 588 (i) the owner of the facility; or
- 589 (ii) the primary service provider of the facility;
- 590 (b) that serves students who have a history of failing to function:
- 591 (i) at home;
- 592 (ii) in a public school; or
- 593 (iii) in a nonresidential private school; and
- 594 (c) that offers:
- 595 (i) room and board; and
- 596 (ii) an academic education integrated with:
- 597 (A) specialized structure and supervision; or
- 598 (B) services or treatment related to a disability, an emotional development, a
- 599 behavioral development, a familial development, or a social development.
- 600 (60) "Transferable development right" means a right to develop and use land that
- 601 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
- 602 land use rights from a designated sending zone to a designated receiving zone.
- 603 (61) "Unincorporated" means the area outside of the incorporated area of a city or
- 604 town.
- 605 (62) "Water interest" means any right to the beneficial use of water, including:
- 606 (a) each of the rights listed in Section 73-1-11; and
- 607 (b) an ownership interest in the right to the beneficial use of water represented by:
- 608 (i) a contract; or
- 609 (ii) a share in a water company, as defined in Section 73-3-3.5.
- 610 (63) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
- 611 land use zones, overlays, or districts.
- 612 Section 3. Section **10-9a-305** is amended to read:
- 613 **10-9a-305. Other entities required to conform to municipality's land use**
- 614 **ordinances -- Exceptions -- School districts and charter schools -- Submission of**
- 615 **development plan and schedule.**
- 616 (1) (a) Each county, municipality, school district, charter school, local district, special

617 service district, and political subdivision of the state shall conform to any applicable land use  
618 ordinance of any municipality when installing, constructing, operating, or otherwise using any  
619 area, land, or building situated within that municipality.

620 (b) In addition to any other remedies provided by law, when a municipality's land use  
621 ordinance is violated or about to be violated by another political subdivision, that municipality  
622 may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to  
623 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

624 (2) (a) Except as provided in Subsection (3), a school district or charter school is  
625 subject to a municipality's land use ordinances.

626 (b) (i) Notwithstanding Subsection (3), a municipality may:

627 (A) subject a charter school to standards within each zone pertaining to setback, height,  
628 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction  
629 staging; and

630 (B) impose regulations upon the location of a project that are necessary to avoid  
631 unreasonable risks to health or safety, as provided in Subsection (3)(f).

632 (ii) The standards to which a municipality may subject a charter school under  
633 Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

634 (iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality  
635 may deny or withhold approval of a charter school's land use application is the charter school's  
636 failure to comply with a standard imposed under Subsection (2)(b)(i).

637 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an  
638 obligation to comply with a requirement of an applicable building or safety code to which it is  
639 otherwise obligated to comply.

640 (3) A municipality may not:

641 (a) impose requirements for landscaping, fencing, aesthetic considerations,  
642 construction methods or materials, additional building inspections, municipal building codes,  
643 building use for educational purposes, or the placement or use of temporary classroom facilities  
644 on school property;

645 (b) except as otherwise provided in this section, require a school district or charter  
646 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a  
647 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school

648 children and not located on or contiguous to school property, unless the roadway or sidewalk is  
649 required to connect an otherwise isolated school site to an existing roadway;

650 (c) require a district or charter school to pay fees not authorized by this section;

651 (d) provide for inspection of school construction or assess a fee or other charges for  
652 inspection, unless the school district or charter school is unable to provide for inspection by an  
653 inspector, other than the project architect or contractor, who is qualified under criteria  
654 established by the state superintendent;

655 (e) require a school district or charter school to pay any impact fee for an improvement  
656 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

657 (f) impose regulations upon the location of an educational facility except as necessary  
658 to avoid unreasonable risks to health or safety; or

659 (g) for a land use or a structure owned or operated by a school district or charter school  
660 that is not an educational facility but is used in support of providing instruction to pupils,  
661 impose a regulation that:

662 (i) is not imposed on a similar land use or structure in the zone in which the land use or  
663 structure is approved; or

664 (ii) uses the tax exempt status of the school district or charter school as criteria for  
665 prohibiting or regulating the land use or location of the structure.

666 (4) Subject to Section [~~53A-20-108~~] [53E-3-710](#), a school district or charter school shall  
667 coordinate the siting of a new school with the municipality in which the school is to be located,  
668 to:

669 (a) avoid or mitigate existing and potential traffic hazards, including consideration of  
670 the impacts between the new school and future highways; and

671 (b) maximize school, student, and site safety.

672 (5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

673 (a) provide a walk-through of school construction at no cost and at a time convenient to  
674 the district or charter school; and

675 (b) provide recommendations based upon the walk-through.

676 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

677 (i) a municipal building inspector;

678 (ii) (A) for a school district, a school district building inspector from that school

679 district; or

680 (B) for a charter school, a school district building inspector from the school district in  
681 which the charter school is located; or

682 (iii) an independent, certified building inspector who is:

683 (A) not an employee of the contractor;

684 (B) approved by:

685 (I) a municipal building inspector; or

686 (II) (Aa) for a school district, a school district building inspector from that school  
687 district; or

688 (Bb) for a charter school, a school district building inspector from the school district in  
689 which the charter school is located; and

690 (C) licensed to perform the inspection that the inspector is requested to perform.

691 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

692 (c) If a school district or charter school uses a school district or independent building  
693 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to  
694 the state superintendent of public instruction and municipal building official, on a monthly  
695 basis during construction of the school building, a copy of each inspection certificate regarding  
696 the school building.

697 (7) (a) A charter school shall be considered a permitted use in all zoning districts  
698 within a municipality.

699 (b) Each land use application for any approval required for a charter school, including  
700 an application for a building permit, shall be processed on a first priority basis.

701 (c) Parking requirements for a charter school may not exceed the minimum parking  
702 requirements for schools or other institutional public uses throughout the municipality.

703 (d) If a municipality has designated zones for a sexually oriented business, or a  
704 business which sells alcohol, a charter school may be prohibited from a location which would  
705 otherwise defeat the purpose for the zone unless the charter school provides a waiver.

706 (e) (i) A school district or a charter school may seek a certificate authorizing permanent  
707 occupancy of a school building from:

708 (A) the state superintendent of public instruction, as provided in Subsection

709 ~~[53A-20-104]~~ [53E-3-706\(3\)](#), if the school district or charter school used an independent

710 building inspector for inspection of the school building; or

711 (B) a municipal official with authority to issue the certificate, if the school district or  
712 charter school used a municipal building inspector for inspection of the school building.

713 (ii) A school district may issue its own certificate authorizing permanent occupancy of  
714 a school building if it used its own building inspector for inspection of the school building,  
715 subject to the notification requirement of Subsection [~~53A-20-104~~] [53E-3-706](#)(3)(a)(ii).

716 (iii) A charter school may seek a certificate authorizing permanent occupancy of a  
717 school building from a school district official with authority to issue the certificate, if the  
718 charter school used a school district building inspector for inspection of the school building.

719 (iv) A certificate authorizing permanent occupancy issued by the state superintendent  
720 of public instruction under Subsection [~~53A-20-104~~] [53E-3-706](#)(3) or a school district official  
721 with authority to issue the certificate shall be considered to satisfy any municipal requirement  
722 for an inspection or a certificate of occupancy.

723 (8) (a) A specified public agency intending to develop its land shall submit to the land  
724 use authority a development plan and schedule:

725 (i) as early as practicable in the development process, but no later than the  
726 commencement of construction; and

727 (ii) with sufficient detail to enable the land use authority to assess:

728 (A) the specified public agency's compliance with applicable land use ordinances;

729 (B) the demand for public facilities listed in Subsections [11-36a-102](#)(16)(a), (b), (c),  
730 (d), (e), and (g) caused by the development;

731 (C) the amount of any applicable fee described in Section [10-9a-510](#);

732 (D) any credit against an impact fee; and

733 (E) the potential for waiving an impact fee.

734 (b) The land use authority shall respond to a specified public agency's submission  
735 under Subsection (8)(a) with reasonable promptness in order to allow the specified public  
736 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the  
737 process of preparing the budget for the development.

738 (9) Nothing in this section may be construed to:

739 (a) modify or supersede Section [10-9a-304](#); or

740 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance,

741 that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing  
742 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of  
743 1990, 42 U.S.C. 12102, or any other provision of federal law.

744 Section 4. Section **11-13-302** is amended to read:

745 **11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy**  
746 **suppliers -- Method of calculating -- Collection -- Extent of tax lien.**

747 (1) (a) Each project entity created under this chapter that owns a project and that sells  
748 any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible  
749 property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad  
750 valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in  
751 this section to each taxing jurisdiction within which the project or any part of it is located.

752 (b) For purposes of this section, "annual fee" means the annual fee described in  
753 Subsection (1)(a) that is in lieu of ad valorem property tax.

754 (c) The requirement to pay an annual fee shall commence:

755 (i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of  
756 impact alleviation payments under contracts or determination orders provided for in Sections  
757 **11-13-305** and **11-13-306**, with the fiscal year of the candidate following the fiscal year of the  
758 candidate in which the date of commercial operation of the last generating unit, other than any  
759 generating unit providing additional project capacity, of the project occurs, or, in the case of  
760 any facilities providing additional project capacity, with the fiscal year of the candidate  
761 following the fiscal year of the candidate in which the date of commercial operation of the  
762 generating unit providing the additional project capacity occurs; and

763 (ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in  
764 Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the  
765 project commences, or, in the case of facilities providing additional project capacity, with the  
766 fiscal year of the taxing jurisdiction in which construction of those facilities commences.

767 (d) The requirement to pay an annual fee shall continue for the period of the useful life  
768 of the project or facilities.

769 (2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b)  
770 because the ad valorem property tax imposed by a school district and authorized by the  
771 Legislature represents both:

772 (i) a levy mandated by the state for the state minimum school program under Section  
773 [~~53A-17a-135~~] [53F-2-301](#); and

774 (ii) local levies for capital outlay and other purposes under Sections [~~53A-16-113~~]  
775 [53F-8-303](#), [~~53A-17a-133~~] [53F-8-301](#), and [~~53A-17a-164~~] [53F-8-302](#).

776 (b) The annual fees due a school district shall be as follows:

777 (i) the project entity shall pay to the school district an annual fee for the state minimum  
778 school program at the rate imposed by the school district and authorized by the Legislature  
779 under Section [~~53A-17a-135~~] [53F-2-301](#); and

780 (ii) for all other local property tax levies authorized to be imposed by a school district,  
781 the project entity shall pay to the school district either:

782 (A) an annual fee; or

783 (B) impact alleviation payments under contracts or determination orders provided for  
784 in Sections [11-13-305](#) and [11-13-306](#).

785 (3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated  
786 by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by  
787 multiplying the fee base or value determined in accordance with Subsection (4) for that year of  
788 the portion of the project located within the jurisdiction by the percentage of the project which  
789 is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

790 (b) As used in this section, "tax rate," when applied in respect to a school district,  
791 includes any assessment to be made by the school district under Subsection (2) or Section  
792 [63M-5-302](#).

793 (c) There is to be credited against the annual fee due a taxing jurisdiction for each year,  
794 an amount equal to the debt service, if any, payable in that year by the project entity on bonds,  
795 the proceeds of which were used to provide public facilities and services for impact alleviation  
796 in the taxing jurisdiction in accordance with Sections [11-13-305](#) and [11-13-306](#).

797 (d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

798 (i) take into account the fee base or value of the percentage of the project located  
799 within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the  
800 capacity, service, or other benefit sold to the supplier or suppliers; and

801 (ii) reflect any credit to be given in that year.

802 (4) (a) Except as otherwise provided in this section, the annual fees required by this

803 section shall be paid, collected, and distributed to the taxing jurisdiction as if:

804 (i) the annual fees were ad valorem property taxes; and

805 (ii) the project were assessed at the same rate and upon the same measure of value as  
806 taxable property in the state.

807 (b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by  
808 this section, the fee base of a project may be determined in accordance with an agreement  
809 among:

810 (A) the project entity; and

811 (B) any county that:

812 (I) is due an annual fee from the project entity; and

813 (II) agrees to have the fee base of the project determined in accordance with the  
814 agreement described in this Subsection (4).

815 (ii) The agreement described in Subsection (4)(b)(i):

816 (A) shall specify each year for which the fee base determined by the agreement shall be  
817 used for purposes of an annual fee; and

818 (B) may not modify any provision of this chapter except the method by which the fee  
819 base of a project is determined for purposes of an annual fee.

820 (iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county  
821 described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in  
822 Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing  
823 jurisdiction.

824 (iv) (A) If there is not agreement as to the fee base of a portion of a project for any  
825 year, for purposes of an annual fee, the State Tax Commission shall determine the value of that  
826 portion of the project for which there is not an agreement:

827 (I) for that year; and

828 (II) using the same measure of value as is used for taxable property in the state.

829 (B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax  
830 Commission in accordance with rules made by the State Tax Commission.

831 (c) Payments of the annual fees shall be made from:

832 (i) the proceeds of bonds issued for the project; and

833 (ii) revenues derived by the project entity from the project.

834 (d) (i) The contracts of the project entity with the purchasers of the capacity, service, or  
835 other benefits of the project whose tangible property is not exempted by Utah Constitution  
836 Article XIII, Section 3, from the payment of ad valorem property tax shall require each  
837 purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for,  
838 its share, determined in accordance with the terms of the contract, of these fees.

839 (ii) It is the responsibility of the project entity to enforce the obligations of the  
840 purchasers.

841 (5) (a) The responsibility of the project entity to make payment of the annual fees is  
842 limited to the extent that there is legally available to the project entity, from bond proceeds or  
843 revenues, money to make these payments, and the obligation to make payments of the annual  
844 fees is not otherwise a general obligation or liability of the project entity.

845 (b) No tax lien may attach upon any property or money of the project entity by virtue of  
846 any failure to pay all or any part of an annual fee.

847 (c) The project entity or any purchaser may contest the validity of an annual fee to the  
848 same extent as if the payment was a payment of the ad valorem property tax itself.

849 (d) The payments of an annual fee shall be reduced to the extent that any contest is  
850 successful.

851 (6) (a) The annual fee described in Subsection (1):

852 (i) shall be paid by a public agency that:

853 (A) is not a project entity; and

854 (B) owns an interest in a facility providing additional project capacity if the interest is  
855 otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

856 (ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in  
857 accordance with Subsection (6)(b).

858 (b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax  
859 rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

860 (i) the fee base or value of the facility providing additional project capacity located  
861 within the jurisdiction;

862 (ii) the percentage of the ownership interest of the public agency in the facility; and

863 (iii) the portion, expressed as a percentage, of the public agency's ownership interest  
864 that is attributable to the capacity, service, or other benefit from the facility that is sold by the

865 public agency to an energy supplier or suppliers whose tangible property is not exempted by  
866 Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

867 (c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the  
868 obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect  
869 to its ownership interest as though it were a project entity.

870 Section 5. Section **11-13-310** is amended to read:

871 **11-13-310. Termination of impact alleviation contract.**

872 If the project or any part of it or the facilities providing additional project capacity or  
873 any part of them, or the output from the project or facilities providing additional project  
874 capacity become subject, in addition to the requirements of Section [11-13-302](#), to ad valorem  
875 property taxation or other payments in lieu of ad valorem property taxation, or other form of  
876 tax equivalent payments to any candidate which is a party to an impact alleviation contract with  
877 respect to the project or facilities providing additional project capacity or is receiving impact  
878 alleviation payments or means with respect to the project or facilities providing additional  
879 project capacity pursuant to a determination by the board, then the impact alleviation contract  
880 or the requirement to make impact alleviation payments or provide means therefor pursuant to  
881 the determination, as the case may be, shall, at the election of the candidate, terminate. In any  
882 event, each impact alleviation contract or determination order shall terminate upon the project,  
883 or, in the case of facilities providing additional project capacity, those facilities becoming  
884 subject to the provisions of Section [11-13-302](#), except that no impact alleviation contract or  
885 agreement entered by a school district shall terminate because of in lieu ad valorem property  
886 tax fees levied under Subsection [11-13-302\(2\)\(b\)\(i\)](#) or because of ad valorem property taxes  
887 levied under Section [~~53A-17a-135~~] [53F-2-301](#) for the state minimum school program. In  
888 addition, if the construction of the project, or, in the case of facilities providing additional  
889 project capacity, of those facilities, is permanently terminated for any reason, each impact  
890 alleviation contract and determination order, and the payments and means required thereunder,  
891 shall terminate. No termination of an impact alleviation contract or determination order may  
892 terminate or reduce any liability previously incurred pursuant to the contract or determination  
893 order by the candidate beneficiary under it. If the provisions of Section [11-13-302](#), or its  
894 successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or  
895 other form of tax equivalent payments are payable, the remaining provisions of this chapter

896 shall continue in operation without regard to the commencement of commercial operation of  
897 the last generating unit of that project or of facilities providing additional project capacity.

898 Section 6. Section 11-14-202 is amended to read:

899 **11-14-202. Notice of election -- Contents -- Publication -- Mailing.**

900 (1) The governing body shall ensure that notice of the election is provided:

901 (a) once per week during three consecutive weeks by publication in a newspaper  
902 having general circulation in the local political subdivision in accordance with Section  
903 11-14-316, the first publication occurring not less than 21 nor more than 35 days before the  
904 election;

905 (b) on a website, if available, in accordance with Section 45-1-101 for the three weeks  
906 that immediately precede the election; and

907 (c) in a local political subdivision where there is no newspaper of general circulation,  
908 by posting notice of the bond election in at least five public places in the local political  
909 subdivision at least 21 days before the election.

910 (2) When the debt service on the bonds to be issued will increase the property tax  
911 imposed upon the average value of a residence by an amount that is greater than or equal to \$15  
912 per year, the governing body shall prepare and mail either a voter information pamphlet or a  
913 notification described in Subsection (8):

914 (a) at least 15 days but not more than 45 days before the bond election;

915 (b) to each household containing a registered voter who is eligible to vote on the  
916 bonds; and

917 (c) that includes the information required by Subsections (4) and (5).

918 (3) The election officer may change the location of, or establish an additional:

919 (a) voting precinct polling place, in accordance with Subsection (6);

920 (b) early voting polling place, in accordance with Subsection 20A-3-603(2); or

921 (c) election day voting center, in accordance with Subsection 20A-3-703(2).

922 (4) The notice described in Subsection (1) and the voter information pamphlet  
923 described in Subsection (2):

924 (a) shall include, in the following order:

925 (i) the date of the election;

926 (ii) the hours during which the polls will be open;

927 (iii) the address of the Statewide Electronic Voter Information Website and, if  
928 available, the address of the election officer's website, with a statement indicating that the  
929 election officer will post on the website the location of each polling place for each voting  
930 precinct, each early voting polling place, and each election day voting center, including any  
931 changes to the location of a polling place and the location of an additional polling place;

932 (iv) a phone number that a voter may call to obtain information regarding the location  
933 of a polling place; and

934 (v) the title and text of the ballot proposition, including the property tax cost of the  
935 bond described in Subsection 11-14-206(2)(a); and

936 (b) may include the location of each polling place.

937 (5) The voter information pamphlet required by this section shall include:

938 (a) the information required under Subsection (4); and

939 (b) an explanation of the property tax impact, if any, of the issuance of the bonds,  
940 which may be based on information the governing body determines to be useful, including:

941 (i) expected debt service on the bonds to be issued;

942 (ii) a description of the purpose, remaining principal balance, and maturity date of any  
943 outstanding general obligation bonds of the issuer;

944 (iii) funds other than property taxes available to pay debt service on general obligation  
945 bonds;

946 (iv) timing of expenditures of bond proceeds;

947 (v) property values; and

948 (vi) any additional information that the governing body determines may be useful to  
949 explain the property tax impact of issuance of the bonds.

950 (6) (a) Except as provided in Section 20A-1-308, the election officer may, after the  
951 deadlines described in Subsections (1) and (2):

952 (i) if necessary, change the location of a voting precinct polling place; or

953 (ii) if the election officer determines that the number of voting precinct polling places  
954 is insufficient due to the number of registered voters who are voting, designate additional  
955 voting precinct polling places.

956 (b) Except as provided in Section 20A-1-308, if an election officer changes the  
957 location of a voting precinct polling place or designates an additional voting precinct polling

958 place, the election officer shall, as soon as is reasonably possible, give notice of the dates,  
959 times, and location of a changed voting precinct polling place or an additional voting precinct  
960 polling place:

961 (i) to the lieutenant governor, for posting on the Statewide Electronic Voter  
962 Information Website;

963 (ii) by posting the information on the website of the election officer, if available; and

964 (iii) by posting notice:

965 (A) of a change in the location of a voting precinct polling place, at the new location  
966 and, if possible, the old location; and

967 (B) of an additional voting precinct polling place, at the additional voting precinct  
968 polling place.

969 (7) The governing body shall pay the costs associated with the notice required by this  
970 section.

971 (8) (a) The governing body may mail a notice printed on a postage prepaid,  
972 preaddressed return form that a person may use to request delivery of a voter information  
973 pamphlet by mail.

974 (b) The notice described in Subsection (8)(a) shall include:

975 (i) the website upon which the voter information pamphlet is available; and

976 (ii) the phone number a voter may call to request delivery of a voter information  
977 pamphlet by mail.

978 (9) A local school board shall comply with the voter information pamphlet  
979 requirements described in Section [~~53A-18-102~~] 53G-4-603.

980 Section 7. Section **11-17-20** is amended to read:

981 **11-17-20. Power of the Utah Charter School Finance Authority.**

982 (1) The Utah Charter School Finance Authority may exercise the powers granted to  
983 municipalities and counties by this chapter, subject to the same limitations as that imposed on a  
984 municipality or county under the chapter, except as provided by [~~Title 53A, Chapter 20b, Part~~  
985 ~~1, Utah Charter School Finance Authority~~] Title 53G, Chapter 5, Part 6, Charter School Credit  
986 Enhancement Program.

987 (2) As used in this chapter, "governing body" when applied to the Utah Charter School  
988 Finance Authority means the authority's governing board as described in Section

989 ~~[53A-20b-103]~~ [53G-5-602](#).

990 (3) Notwithstanding Section [11-17-15](#), a charter school that receives financing under  
991 this chapter is subject to Title 63G, Chapter 6a, Utah Procurement Code.

992 Section 8. Section **11-36a-102** is amended to read:

993 **11-36a-102. Definitions.**

994 As used in this chapter:

995 (1) (a) "Affected entity" means each county, municipality, local district under Title  
996 17B, Limited Purpose Local Government Entities - Local Districts, special service district  
997 under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation  
998 entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

999 (i) whose services or facilities are likely to require expansion or significant  
1000 modification because of the facilities proposed in the proposed impact fee facilities plan; or

1001 (ii) that has filed with the local political subdivision or private entity a copy of the  
1002 general or long-range plan of the county, municipality, local district, special service district,  
1003 school district, interlocal cooperation entity, or specified public utility.

1004 (b) "Affected entity" does not include the local political subdivision or private entity  
1005 that is required under Section [11-36a-501](#) to provide notice.

1006 (2) "Charter school" includes:

1007 (a) an operating charter school;

1008 (b) an applicant for a charter school whose application has been approved by a charter  
1009 school authorizer as provided in [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]  
1010 [Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program](#); and

1011 (c) an entity that is working on behalf of a charter school or approved charter applicant  
1012 to develop or construct a charter school building.

1013 (3) "Development activity" means any construction or expansion of a building,  
1014 structure, or use, any change in use of a building or structure, or any changes in the use of land  
1015 that creates additional demand and need for public facilities.

1016 (4) "Development approval" means:

1017 (a) except as provided in Subsection (4)(b), any written authorization from a local  
1018 political subdivision that authorizes the commencement of development activity;

1019 (b) development activity, for a public entity that may develop without written

- 1020 authorization from a local political subdivision;
- 1021 (c) a written authorization from a public water supplier, as defined in Section 73-1-4,
- 1022 or a private water company:
- 1023 (i) to reserve or provide:
- 1024 (A) a water right;
- 1025 (B) a system capacity; or
- 1026 (C) a distribution facility; or
- 1027 (ii) to deliver for a development activity:
- 1028 (A) culinary water; or
- 1029 (B) irrigation water; or
- 1030 (d) a written authorization from a sanitary sewer authority, as defined in Section
- 1031 10-9a-103:
- 1032 (i) to reserve or provide:
- 1033 (A) sewer collection capacity; or
- 1034 (B) treatment capacity; or
- 1035 (ii) to provide sewer service for a development activity.
- 1036 (5) "Enactment" means:
- 1037 (a) a municipal ordinance, for a municipality;
- 1038 (b) a county ordinance, for a county; and
- 1039 (c) a governing board resolution, for a local district, special service district, or private
- 1040 entity.
- 1041 (6) "Encumber" means:
- 1042 (a) a pledge to retire a debt; or
- 1043 (b) an allocation to a current purchase order or contract.
- 1044 (7) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 1045 meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility
- 1046 system of a municipality, county, local district, special service district, or private entity.
- 1047 (8) (a) "Impact fee" means a payment of money imposed upon new development
- 1048 activity as a condition of development approval to mitigate the impact of the new development
- 1049 on public infrastructure.
- 1050 (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a

1051 hookup fee, a fee for project improvements, or other reasonable permit or application fee.

1052 (9) "Impact fee analysis" means the written analysis of each impact fee required by  
1053 Section [11-36a-303](#).

1054 (10) "Impact fee facilities plan" means the plan required by Section [11-36a-301](#).

1055 (11) "Level of service" means the defined performance standard or unit of demand for  
1056 each capital component of a public facility within a service area.

1057 (12) (a) "Local political subdivision" means a county, a municipality, a local district  
1058 under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special  
1059 service district under Title 17D, Chapter 1, Special Service District Act.

1060 (b) "Local political subdivision" does not mean a school district, whose impact fee  
1061 activity is governed by Section [~~53A-20-100.5~~] [11-36a-206](#).

1062 (13) "Private entity" means an entity in private ownership with at least 100 individual  
1063 shareholders, customers, or connections, that is located in a first, second, third, or fourth class  
1064 county and provides water to an applicant for development approval who is required to obtain  
1065 water from the private entity either as a:

1066 (a) specific condition of development approval by a local political subdivision acting  
1067 pursuant to a prior agreement, whether written or unwritten, with the private entity; or

1068 (b) functional condition of development approval because the private entity:

1069 (i) has no reasonably equivalent competition in the immediate market; and

1070 (ii) is the only realistic source of water for the applicant's development.

1071 (14) (a) "Project improvements" means site improvements and facilities that are:

1072 (i) planned and designed to provide service for development resulting from a  
1073 development activity;

1074 (ii) necessary for the use and convenience of the occupants or users of development  
1075 resulting from a development activity; and

1076 (iii) not identified or reimbursed as a system improvement.

1077 (b) "Project improvements" does not mean system improvements.

1078 (15) "Proportionate share" means the cost of public facility improvements that are  
1079 roughly proportionate and reasonably related to the service demands and needs of any  
1080 development activity.

1081 (16) "Public facilities" means only the following impact fee facilities that have a life

1082 expectancy of 10 or more years and are owned or operated by or on behalf of a local political  
1083 subdivision or private entity:

- 1084 (a) water rights and water supply, treatment, storage, and distribution facilities;
- 1085 (b) wastewater collection and treatment facilities;
- 1086 (c) storm water, drainage, and flood control facilities;
- 1087 (d) municipal power facilities;
- 1088 (e) roadway facilities;
- 1089 (f) parks, recreation facilities, open space, and trails;
- 1090 (g) public safety facilities; or
- 1091 (h) environmental mitigation as provided in Section [11-36a-205](#).

1092 (17) (a) "Public safety facility" means:

- 1093 (i) a building constructed or leased to house police, fire, or other public safety entities;

1094 or

- 1095 (ii) a fire suppression vehicle costing in excess of \$500,000.

1096 (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary  
1097 incarceration.

1098 (18) (a) "Roadway facilities" means a street or road that has been designated on an  
1099 officially adopted subdivision plat, roadway plan, or general plan of a political subdivision,  
1100 together with all necessary appurtenances.

1101 (b) "Roadway facilities" includes associated improvements to a federal or state  
1102 roadway only when the associated improvements:

- 1103 (i) are necessitated by the new development; and
- 1104 (ii) are not funded by the state or federal government.

1105 (c) "Roadway facilities" does not mean federal or state roadways.

1106 (19) (a) "Service area" means a geographic area designated by an entity that imposes an  
1107 impact fee on the basis of sound planning or engineering principles in which a public facility,  
1108 or a defined set of public facilities, provides service within the area.

1109 (b) "Service area" may include the entire local political subdivision or an entire area  
1110 served by a private entity.

1111 (20) "Specified public agency" means:

- 1112 (a) the state;

- 1113 (b) a school district; or
- 1114 (c) a charter school.
- 1115 (21) (a) "System improvements" means:
- 1116 (i) existing public facilities that are:
- 1117 (A) identified in the impact fee analysis under Section 11-36a-304; and
- 1118 (B) designed to provide services to service areas within the community at large; and
- 1119 (ii) future public facilities identified in the impact fee analysis under Section
- 1120 11-36a-304 that are intended to provide services to service areas within the community at large.
- 1121 (b) "System improvements" does not mean project improvements.
- 1122 Section 9. Section 11-36a-202 is amended to read:
- 1123 **11-36a-202. Prohibitions on impact fees.**
- 1124 (1) A local political subdivision or private entity may not:
- 1125 (a) impose an impact fee to:
- 1126 (i) cure deficiencies in a public facility serving existing development;
- 1127 (ii) raise the established level of service of a public facility serving existing
- 1128 development;
- 1129 (iii) recoup more than the local political subdivision's or private entity's costs actually
- 1130 incurred for excess capacity in an existing system improvement; or
- 1131 (iv) include an expense for overhead, unless the expense is calculated pursuant to a
- 1132 methodology that is consistent with:
- 1133 (A) generally accepted cost accounting practices; and
- 1134 (B) the methodological standards set forth by the federal Office of Management and
- 1135 Budget for federal grant reimbursement;
- 1136 (b) delay the construction of a school or charter school because of a dispute with the
- 1137 school or charter school over impact fees; or
- 1138 (c) impose or charge any other fees as a condition of development approval unless
- 1139 those fees are a reasonable charge for the service provided.
- 1140 (2) (a) Notwithstanding any other provision of this chapter, a political subdivision or
- 1141 private entity may not impose an impact fee:
- 1142 (i) on residential components of development to pay for a public safety facility that is a
- 1143 fire suppression vehicle;

1144 (ii) on a school district or charter school for a park, recreation facility, open space, or  
1145 trail;

1146 (iii) on a school district or charter school unless:

1147 (A) the development resulting from the school district's or charter school's  
1148 development activity directly results in a need for additional system improvements for which  
1149 the impact fee is imposed; and

1150 (B) the impact fee is calculated to cover only the school district's or charter school's  
1151 proportionate share of the cost of those additional system improvements;

1152 (iv) to the extent that the impact fee includes a component for a law enforcement  
1153 facility, on development activity for:

1154 (A) the Utah National Guard;

1155 (B) the Utah Highway Patrol; or

1156 (C) a state institution of higher education that has its own police force; or

1157 (v) on development activity on the state fair park, as defined in Section [63H-6-102](#).

1158 (b) (i) Notwithstanding any other provision of this chapter, a political subdivision or  
1159 private entity may not impose an impact fee on development activity that consists of the  
1160 construction of a school, whether by a school district or a charter school, if:

1161 (A) the school is intended to replace another school, whether on the same or a different  
1162 parcel;

1163 (B) the new school creates no greater demand or need for public facilities than the  
1164 school or school facilities, including any portable or modular classrooms that are on the site of  
1165 the replaced school at the time that the new school is proposed; and

1166 (C) the new school and the school being replaced are both within the boundary of the  
1167 local political subdivision or the jurisdiction of the private entity.

1168 (ii) If the imposition of an impact fee on a new school is not prohibited under  
1169 Subsection (2)(b)(i) because the new school creates a greater demand or need for public  
1170 facilities than the school being replaced, the impact fee shall be based only on the demand or  
1171 need that the new school creates for public facilities that exceeds the demand or need that the  
1172 school being replaced creates for those public facilities.

1173 (c) Notwithstanding any other provision of this chapter, a political subdivision or  
1174 private entity may impose an impact fee for a road facility on the state only if and to the extent

1175 that:

- 1176 (i) the state's development causes an impact on the road facility; and  
1177 (ii) the portion of the road facility related to an impact fee is not funded by the state or  
1178 by the federal government.

1179 (3) Notwithstanding any other provision of this chapter, a local political subdivision  
1180 may impose and collect impact fees on behalf of a school district if authorized by Section  
1181 ~~[53A-20-100.5]~~ [11-36a-206](#).

1182 Section 10. Section **11-44-201** is amended to read:

1183 **11-44-201. Political subdivision responsibilities -- State responsibilities.**

1184 (1) A political subdivision may:

- 1185 (a) enter into a performance efficiency agreement;  
1186 (b) develop and administer a performance efficiency program;  
1187 (c) analyze energy consumption by the political subdivision;  
1188 (d) designate a staff member who is responsible for a performance efficiency program;

1189 and

1190 (e) provide the governing body of the political subdivision with information regarding  
1191 the performance efficiency program.

1192 (2) The following entities may provide information, technical resources, and other  
1193 assistance to a political subdivision acting under this chapter:

- 1194 (a) the Utah Geological Survey, created in Section [79-3-201](#);  
1195 (b) the State Board of Education~~[, under Title 53A, Chapter 1, Administration of~~  
1196 ~~Public Education at the State Level]~~;  
1197 (c) the Division of Purchasing and General Services, created in Section [63A-2-101](#);

1198 and

1199 (d) the Division of Facilities Construction and Management, created in Section  
1200 [63A-5-201](#).

1201 Section 11. Section **11-49-102** is amended to read:

1202 **11-49-102. Definitions.**

1203 (1) "Commission" means the Political Subdivisions Ethics Review Commission  
1204 established in Section [11-49-201](#).

1205 (2) "Complainant" means a person who files a complaint in accordance with Section

1206 [11-49-501](#).

1207 (3) "Ethics violation" means a violation of:

1208 (a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

1209 (b) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

1210 (c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

1211 (4) "Local political subdivision ethics commission" means an ethics commission

1212 established by a political subdivision within the political subdivision or with another political

1213 subdivision by interlocal agreement in accordance with Section [11-49-103](#).

1214 (5) "Political subdivision" means a county, municipality, school district, community

1215 reinvestment agency, local district, special service district, an entity created by an interlocal

1216 agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building

1217 authority, or any other governmental subdivision or public corporation.

1218 (6) (a) "Political subdivision employee" means a person who is:

1219 (i) (A) in a municipality, employed as a city manager or non-elected chief executive on

1220 a full or part-time basis; or

1221 (B) employed as the non-elected chief executive by a political subdivision other than a

1222 municipality on a full or part-time basis; and

1223 (ii) subject to:

1224 (A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

1225 (B) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

1226 (C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

1227 (b) "Political subdivision employee" does not include:

1228 (i) a person who is a political subdivision officer;

1229 (ii) an employee of a state entity; or

1230 (iii) a legislative employee as defined in Section [67-16-3](#).

1231 (7) "Political subdivision governing body" means:

1232 (a) for a county, the county legislative body as defined in Section [68-3-12.5](#);

1233 (b) for a municipality, the council of the city or town;

1234 (c) for a school district, the local board of education described in Section [~~53A-3-101~~]

1235 [53G-4-201](#);

1236 (d) for a community reinvestment agency, the agency board described in Section

1237 17C-1-203;

1238 (e) for a local district, the board of trustees described in Section 17B-1-301;

1239 (f) for a special service district:

1240 (i) the legislative body of the county, city, or town that established the special service  
1241 district, if no administrative control board has been appointed under Section 17D-1-301; or

1242 (ii) the administrative control board of the special service district, if an administrative  
1243 control board has been appointed under Section 17D-1-301;

1244 (g) for an entity created by an interlocal agreement, the governing body of an interlocal  
1245 entity, as defined in Section 11-13-103;

1246 (h) for a local building authority, the governing body, as defined in Section 17D-2-102,  
1247 that creates the local building authority; or

1248 (i) for any other governmental subdivision or public corporation, the board or other  
1249 body authorized to make executive and management decisions for the subdivision or public  
1250 corporation.

1251 (8) (a) "Political subdivision officer" means a person elected in a political subdivision  
1252 who is subject to:

1253 (i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;

1254 (ii) Title 17, Chapter 16a, County Officers and Employees Disclosure Act; or

1255 (iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

1256 (b) "Political subdivision officer" does not include:

1257 (i) a person elected or appointed to a state entity;

1258 (ii) the governor;

1259 (iii) the lieutenant governor;

1260 (iv) a member or member-elect of either house of the Legislature; or

1261 (v) a member of Utah's congressional delegation.

1262 (9) "Respondent" means a person who files a response in accordance with Section  
1263 11-49-604.

1264 Section 12. Section 13-22-8 is amended to read:

1265 **13-22-8. Exemptions.**

1266 (1) Section 13-22-5 does not apply to:

1267 (a) a bona fide religious, ecclesiastical, or denominational organization if:

- 1268 (i) the solicitation is made for a church, missionary, religious, or humanitarian purpose;  
1269 and
- 1270 (ii) the organization is either:
- 1271 (A) a lawfully organized corporation, institution, society, church, or established  
1272 physical place of worship, at which nonprofit religious services and activities are regularly  
1273 conducted and carried on;
- 1274 (B) a bona fide religious group:
- 1275 (I) that does not maintain specific places of worship;
- 1276 (II) that is not subject to federal income tax; and
- 1277 (III) not required to file an IRS Form 990 under any circumstance; or
- 1278 (C) a separate group or corporation that is an integral part of an institution that is an  
1279 income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported  
1280 by funds solicited outside the group's or corporation's own membership or congregation;
- 1281 (b) a solicitation by a broadcast media owned or operated by an educational institution  
1282 or governmental entity, or any entity organized solely for the support of that broadcast media;
- 1283 (c) except as provided in Subsection [13-22-21\(1\)](#), a solicitation for the relief of any  
1284 person sustaining a life-threatening illness or injury specified by name at the time of  
1285 solicitation if the entire amount collected without any deduction is turned over to the named  
1286 person;
- 1287 (d) a political party authorized to transact the political party's affairs within this state  
1288 and any candidate and campaign worker of the political party if the content and manner of any  
1289 solicitation make clear that the solicitation is for the benefit of the political party or candidate;
- 1290 (e) a political action committee or group soliciting funds relating to issues or  
1291 candidates on the ballot if the committee or group is required to file financial information with  
1292 a federal or state election commission;
- 1293 (f) (i) a public school;
- 1294 (ii) a public institution of higher learning;
- 1295 (iii) a school accredited by an accreditation body recognized within the state or the  
1296 United States;
- 1297 (iv) an institution of higher learning accredited by an accreditation body recognized  
1298 within the state or the United States;

- 1299 (v) an organization within, and authorized by, an entity described in Subsections  
1300 (1)(f)(i) through (iv); or
- 1301 (vi) a parent organization, teacher organization, or student organization authorized by  
1302 an entity described in Subsection (1)(f)(i) or (iii) if:
- 1303 (A) the parent organization, teacher organization, or student organization is a branch  
1304 of, or is affiliated with, a central organization;
- 1305 (B) the parent organization, teacher organization, or student organization is subject to  
1306 the central organization's general control and supervision;
- 1307 (C) the central organization holds a United States Internal Revenue Service group tax  
1308 exemption that covers the parent organization, teacher organization, or student organization;  
1309 and
- 1310 (D) the central organization is registered with the division under this chapter;
- 1311 (g) a public or higher education foundation established under [~~Title 53A, State System~~  
1312 ~~of Public Education~~] Title 53E, Public Education System -- State Administration, Title 53G,  
1313 Public Education System -- Local Administration, or Title 53B, State System of Higher  
1314 Education;
- 1315 (h) a television station, radio station, or newspaper of general circulation that donates  
1316 air time or print space for no consideration as part of a cooperative solicitation effort on behalf  
1317 of a charitable organization, whether or not that organization is required to register under this  
1318 chapter;
- 1319 (i) a volunteer fire department, rescue squad, or local civil defense organization whose  
1320 financial oversight is under the control of a local governmental entity;
- 1321 (j) any governmental unit of any state or the United States;
- 1322 (k) any corporation:
- 1323 (i) established by an act of the United States Congress; and  
1324 (ii) that is required by federal law to submit an annual report:
- 1325 (A) on the activities of the corporation, including an itemized report of all receipts and  
1326 expenditures of the corporation; and
- 1327 (B) to the United States Secretary of Defense to be:
- 1328 (I) audited; and  
1329 (II) submitted to the United States Congress;

- 1330 (l) a solicitation by an applicant for a grant offered by a state agency if:
- 1331 (i) the terms of the grant provide that the state agency monitors a grant recipient to
- 1332 ensure that grant funds are used in accordance with the grant's purpose; and
- 1333 (ii) the sum of the amount available to the applicant under grants offered by a state
- 1334 agency that the applicant applies for in a calendar year is less than or equal to \$1,500; and
- 1335 (m) a chapter of a charitable organization or a person who solicits contributions for a
- 1336 charitable organization, if the charitable organization is registered with the division pursuant to
- 1337 Section 13-22-5, and:
- 1338 (i) all contributions solicited by the chapter or person are delivered directly to the
- 1339 control of the charitable organization; or
- 1340 (ii) (A) the charitable organization holds a United States Internal Revenue Service
- 1341 group tax exemption that covers the chapter;
- 1342 (B) the charitable organization provides a list of its chapters to the division with its
- 1343 registration or renewal of registration;
- 1344 (C) the chapter is on the list provided under Subsection (1)(m)(ii)(B);
- 1345 (D) the chapter maintains the information required under Section 13-22-15 and
- 1346 provides the information to the division upon request; and
- 1347 (E) solicitations by the chapter or the person are limited to the collection of
- 1348 membership-related fees, dues, or assessments from new and existing members.
- 1349 (2) An organization claiming an exemption under this section bears the burden of
- 1350 proving the organization's eligibility for, or the applicability of, the exemption claimed.
- 1351 (3) An organization exempt from registration pursuant to this section that makes a
- 1352 material change in the organization's legal status, officers, address, or similar changes shall file
- 1353 a report informing the division of the organization's current legal status, business address,
- 1354 business phone, officers, and primary contact person within 30 days of the change.
- 1355 (4) The division may by rule:
- 1356 (a) require an organization that is exempt from registration under this section to:
- 1357 (i) file a notice of claim of exemption; and
- 1358 (ii) file a renewal of a notice of claim of exemption;
- 1359 (b) prescribe the contents of a notice of claim of exemption and a renewal of a notice
- 1360 of claim of exemption; and

1361 (c) require a filing fee for a notice of claim of exemption and a renewal of a notice of  
1362 claim of exemption as determined under Section 63J-1-504.

1363 Section 13. Section 17-27a-103 is amended to read:

1364 **17-27a-103. Definitions.**

1365 As used in this chapter:

1366 (1) "Affected entity" means a county, municipality, local district, special service  
1367 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal  
1368 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified  
1369 property owner, property owners association, public utility, or the Utah Department of  
1370 Transportation, if:

1371 (a) the entity's services or facilities are likely to require expansion or significant  
1372 modification because of an intended use of land;

1373 (b) the entity has filed with the county a copy of the entity's general or long-range plan;  
1374 or

1375 (c) the entity has filed with the county a request for notice during the same calendar  
1376 year and before the county provides notice to an affected entity in compliance with a  
1377 requirement imposed under this chapter.

1378 (2) "Appeal authority" means the person, board, commission, agency, or other body  
1379 designated by ordinance to decide an appeal of a decision of a land use application or a  
1380 variance.

1381 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or  
1382 residential property if the sign is designed or intended to direct attention to a business, product,  
1383 or service that is not sold, offered, or existing on the property where the sign is located.

1384 (4) (a) "Charter school" means:

1385 (i) an operating charter school;

1386 (ii) a charter school applicant that has its application approved by a charter school  
1387 authorizer in accordance with [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~]  
1388 Title 53G, Chapter 5, Part 3, Charter School Authorization; or

1389 (iii) an entity that is working on behalf of a charter school or approved charter  
1390 applicant to develop or construct a charter school building.

1391 (b) "Charter school" does not include a therapeutic school.

1392 (5) "Chief executive officer" means the person or body that exercises the executive  
1393 powers of the county.

1394 (6) "Conditional use" means a land use that, because of its unique characteristics or  
1395 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be  
1396 compatible in some areas or may be compatible only if certain conditions are required that  
1397 mitigate or eliminate the detrimental impacts.

1398 (7) "Constitutional taking" means a governmental action that results in a taking of  
1399 private property so that compensation to the owner of the property is required by the:

- 1400 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 1401 (b) Utah Constitution, Article I, Section 22.

1402 (8) "Culinary water authority" means the department, agency, or public entity with  
1403 responsibility to review and approve the feasibility of the culinary water system and sources for  
1404 the subject property.

1405 (9) "Development activity" means:

1406 (a) any construction or expansion of a building, structure, or use that creates additional  
1407 demand and need for public facilities;

1408 (b) any change in use of a building or structure that creates additional demand and need  
1409 for public facilities; or

1410 (c) any change in the use of land that creates additional demand and need for public  
1411 facilities.

1412 (10) (a) "Disability" means a physical or mental impairment that substantially limits  
1413 one or more of a person's major life activities, including a person having a record of such an  
1414 impairment or being regarded as having such an impairment.

1415 (b) "Disability" does not include current illegal use of, or addiction to, any federally  
1416 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.  
1417 802.

1418 (11) "Educational facility":

1419 (a) means:

1420 (i) a school district's building at which pupils assemble to receive instruction in a  
1421 program for any combination of grades from preschool through grade 12, including  
1422 kindergarten and a program for children with disabilities;

- 1423 (ii) a structure or facility:
- 1424 (A) located on the same property as a building described in Subsection (11)(a)(i); and
- 1425 (B) used in support of the use of that building; and
- 1426 (iii) a building to provide office and related space to a school district's administrative
- 1427 personnel; and
- 1428 (b) does not include:
- 1429 (i) land or a structure, including land or a structure for inventory storage, equipment
- 1430 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
- 1431 (A) not located on the same property as a building described in Subsection (11)(a)(i);
- 1432 and
- 1433 (B) used in support of the purposes of a building described in Subsection (11)(a)(i); or
- 1434 (ii) a therapeutic school.
- 1435 (12) "Fire authority" means the department, agency, or public entity with responsibility
- 1436 to review and approve the feasibility of fire protection and suppression services for the subject
- 1437 property.
- 1438 (13) "Flood plain" means land that:
- 1439 (a) is within the 100-year flood plain designated by the Federal Emergency
- 1440 Management Agency; or
- 1441 (b) has not been studied or designated by the Federal Emergency Management Agency
- 1442 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
- 1443 the land has characteristics that are similar to those of a 100-year flood plain designated by the
- 1444 Federal Emergency Management Agency.
- 1445 (14) "Gas corporation" has the same meaning as defined in Section [54-2-1](#).
- 1446 (15) "General plan" means a document that a county adopts that sets forth general
- 1447 guidelines for proposed future development of:
- 1448 (a) the unincorporated land within the county; or
- 1449 (b) for a mountainous planning district, the land within the mountainous planning
- 1450 district.
- 1451 (16) "Geologic hazard" means:
- 1452 (a) a surface fault rupture;
- 1453 (b) shallow groundwater;

- 1454 (c) liquefaction;
- 1455 (d) a landslide;
- 1456 (e) a debris flow;
- 1457 (f) unstable soil;
- 1458 (g) a rock fall; or
- 1459 (h) any other geologic condition that presents a risk:
- 1460 (i) to life;
- 1461 (ii) of substantial loss of real property; or
- 1462 (iii) of substantial damage to real property.
- 1463 (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line,
- 1464 meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility
- 1465 system.
- 1466 (18) "Identical plans" means building plans submitted to a county that:
- 1467 (a) are clearly marked as "identical plans";
- 1468 (b) are substantially identical building plans that were previously submitted to and
- 1469 reviewed and approved by the county; and
- 1470 (c) describe a building that:
- 1471 (i) is located on land zoned the same as the land on which the building described in the
- 1472 previously approved plans is located;
- 1473 (ii) is subject to the same geological and meteorological conditions and the same law
- 1474 as the building described in the previously approved plans;
- 1475 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 1476 and approved by the county; and
- 1477 (iv) does not require any additional engineering or analysis.
- 1478 (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a,
- 1479 Impact Fees Act.
- 1480 (20) "Improvement completion assurance" means a surety bond, letter of credit,
- 1481 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
- 1482 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
- 1483 required as a condition precedent to:
- 1484 (a) recording a subdivision plat; or

1485 (b) development of a commercial, industrial, mixed use, or multifamily project.

1486 (21) "Improvement warranty" means an applicant's unconditional warranty that the  
1487 applicant's installed and accepted landscaping or infrastructure improvement:

1488 (a) complies with the county's written standards for design, materials, and  
1489 workmanship; and

1490 (b) will not fail in any material respect, as a result of poor workmanship or materials,  
1491 within the improvement warranty period.

1492 (22) "Improvement warranty period" means a period:

1493 (a) no later than one year after a county's acceptance of required landscaping; or

1494 (b) no later than one year after a county's acceptance of required infrastructure, unless  
1495 the county:

1496 (i) determines for good cause that a one-year period would be inadequate to protect the  
1497 public health, safety, and welfare; and

1498 (ii) has substantial evidence, on record:

1499 (A) of prior poor performance by the applicant; or

1500 (B) that the area upon which the infrastructure will be constructed contains suspect soil  
1501 and the county has not otherwise required the applicant to mitigate the suspect soil.

1502 (23) "Infrastructure improvement" means permanent infrastructure that an applicant  
1503 must install:

1504 (a) pursuant to published installation and inspection specifications for public  
1505 improvements; and

1506 (b) as a condition of:

1507 (i) recording a subdivision plat; or

1508 (ii) development of a commercial, industrial, mixed use, condominium, or multifamily  
1509 project.

1510 (24) "Internal lot restriction" means a platted note, platted demarcation, or platted  
1511 designation that:

1512 (a) runs with the land; and

1513 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on  
1514 the plat; or

1515 (ii) designates a development condition that is enclosed within the perimeter of a lot

1516 described on the plat.

1517 (25) "Interstate pipeline company" means a person or entity engaged in natural gas  
1518 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under  
1519 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1520 (26) "Intrastate pipeline company" means a person or entity engaged in natural gas  
1521 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory  
1522 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

1523 (27) "Land use applicant" means a property owner, or the property owner's designee,  
1524 who submits a land use application regarding the property owner's land.

1525 (28) "Land use application":

1526 (a) means an application that is:

1527 (i) required by a county; and

1528 (ii) submitted by a land use applicant to obtain a land use decision; and

1529 (b) does not mean an application to enact, amend, or repeal a land use regulation.

1530 (29) "Land use authority" means:

1531 (a) a person, board, commission, agency, or body, including the local legislative body,  
1532 designated by the local legislative body to act upon a land use application; or

1533 (b) if the local legislative body has not designated a person, board, commission,  
1534 agency, or body, the local legislative body.

1535 (30) "Land use decision" means a final action of a land use authority or appeal  
1536 authority regarding:

1537 (a) a land use permit;

1538 (b) a land use application; or

1539 (c) the enforcement of a land use regulation, land use permit, or development  
1540 agreement.

1541 (31) "Land use permit" means a permit issued by a land use authority.

1542 (32) "Land use regulation":

1543 (a) means an ordinance, law, code, map, resolution, specification, fee, or rule that  
1544 governs the use or development of land; and

1545 (b) does not include:

1546 (i) a general plan;

1547 (ii) a land use decision of the legislative body acting as the land use authority, even if  
1548 the decision is expressed in a resolution or ordinance; or

1549 (iii) a temporary revision to an engineering specification that does not materially:

1550 (A) increase a land use applicant's cost of development compared to the existing  
1551 specification; or

1552 (B) impact a land use applicant's use of land.

1553 (33) "Legislative body" means the county legislative body, or for a county that has  
1554 adopted an alternative form of government, the body exercising legislative powers.

1555 (34) "Local district" means any entity under Title 17B, Limited Purpose Local  
1556 Government Entities - Local Districts, and any other governmental or quasi-governmental  
1557 entity that is not a county, municipality, school district, or the state.

1558 (35) "Lot line adjustment" means the relocation of the property boundary line in a  
1559 subdivision between two adjoining lots with the consent of the owners of record.

1560 (36) "Moderate income housing" means housing occupied or reserved for occupancy  
1561 by households with a gross household income equal to or less than 80% of the median gross  
1562 income for households of the same size in the county in which the housing is located.

1563 (37) "Mountainous planning district" means an area:

1564 (a) designated by a county legislative body in accordance with Section [17-27a-901](#); and

1565 (b) that is not otherwise exempt under Section [10-9a-304](#).

1566 (38) "Nominal fee" means a fee that reasonably reimburses a county only for time spent  
1567 and expenses incurred in:

1568 (a) verifying that building plans are identical plans; and

1569 (b) reviewing and approving those minor aspects of identical plans that differ from the  
1570 previously reviewed and approved building plans.

1571 (39) "Noncomplying structure" means a structure that:

1572 (a) legally existed before its current land use designation; and

1573 (b) because of one or more subsequent land use ordinance changes, does not conform  
1574 to the setback, height restrictions, or other regulations, excluding those regulations that govern  
1575 the use of land.

1576 (40) "Nonconforming use" means a use of land that:

1577 (a) legally existed before its current land use designation;

1578 (b) has been maintained continuously since the time the land use ordinance regulation  
1579 governing the land changed; and

1580 (c) because of one or more subsequent land use ordinance changes, does not conform  
1581 to the regulations that now govern the use of the land.

1582 (41) "Official map" means a map drawn by county authorities and recorded in the  
1583 county recorder's office that:

1584 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for  
1585 highways and other transportation facilities;

1586 (b) provides a basis for restricting development in designated rights-of-way or between  
1587 designated setbacks to allow the government authorities time to purchase or otherwise reserve  
1588 the land; and

1589 (c) has been adopted as an element of the county's general plan.

1590 (42) "Parcel boundary adjustment" means a recorded agreement between owners of  
1591 adjoining properties adjusting their mutual boundary if:

1592 (a) no additional parcel is created; and

1593 (b) each property identified in the agreement is unsubdivided land, including a  
1594 remainder of subdivided land.

1595 (43) "Person" means an individual, corporation, partnership, organization, association,  
1596 trust, governmental agency, or any other legal entity.

1597 (44) "Plan for moderate income housing" means a written document adopted by a  
1598 county legislative body that includes:

1599 (a) an estimate of the existing supply of moderate income housing located within the  
1600 county;

1601 (b) an estimate of the need for moderate income housing in the county for the next five  
1602 years as revised biennially;

1603 (c) a survey of total residential land use;

1604 (d) an evaluation of how existing land uses and zones affect opportunities for moderate  
1605 income housing; and

1606 (e) a description of the county's program to encourage an adequate supply of moderate  
1607 income housing.

1608 (45) "Planning advisory area" means a contiguous, geographically defined portion of

1609 the unincorporated area of a county established under this part with planning and zoning  
1610 functions as exercised through the planning advisory area planning commission, as provided in  
1611 this chapter, but with no legal or political identity separate from the county and no taxing  
1612 authority.

1613 (46) "Plat" means a map or other graphical representation of lands being laid out and  
1614 prepared in accordance with Section [17-27a-603](#), [17-23-17](#), or [57-8-13](#).

1615 (47) "Potential geologic hazard area" means an area that:

1616 (a) is designated by a Utah Geological Survey map, county geologist map, or other  
1617 relevant map or report as needing further study to determine the area's potential for geologic  
1618 hazard; or

1619 (b) has not been studied by the Utah Geological Survey or a county geologist but  
1620 presents the potential of geologic hazard because the area has characteristics similar to those of  
1621 a designated geologic hazard area.

1622 (48) "Public agency" means:

1623 (a) the federal government;

1624 (b) the state;

1625 (c) a county, municipality, school district, local district, special service district, or other  
1626 political subdivision of the state; or

1627 (d) a charter school.

1628 (49) "Public hearing" means a hearing at which members of the public are provided a  
1629 reasonable opportunity to comment on the subject of the hearing.

1630 (50) "Public meeting" means a meeting that is required to be open to the public under  
1631 Title 52, Chapter 4, Open and Public Meetings Act.

1632 (51) "Receiving zone" means an unincorporated area of a county that the county  
1633 designates, by ordinance, as an area in which an owner of land may receive a transferable  
1634 development right.

1635 (52) "Record of survey map" means a map of a survey of land prepared in accordance  
1636 with Section [17-23-17](#).

1637 (53) "Residential facility for persons with a disability" means a residence:

1638 (a) in which more than one person with a disability resides; and

1639 (b) (i) which is licensed or certified by the Department of Human Services under Title

1640 62A, Chapter 2, Licensure of Programs and Facilities; or

1641 (ii) which is licensed or certified by the Department of Health under Title 26, Chapter  
1642 21, Health Care Facility Licensing and Inspection Act.

1643 (54) "Rules of order and procedure" means a set of rules that govern and prescribe in a  
1644 public meeting:

1645 (a) parliamentary order and procedure;

1646 (b) ethical behavior; and

1647 (c) civil discourse.

1648 (55) "Sanitary sewer authority" means the department, agency, or public entity with  
1649 responsibility to review and approve the feasibility of sanitary sewer services or onsite  
1650 wastewater systems.

1651 (56) "Sending zone" means an unincorporated area of a county that the county  
1652 designates, by ordinance, as an area from which an owner of land may transfer a transferable  
1653 development right.

1654 (57) "Site plan" means a document or map that may be required by a county during a  
1655 preliminary review preceding the issuance of a building permit to demonstrate that an owner's  
1656 or developer's proposed development activity meets a land use requirement.

1657 (58) "Specified public agency" means:

1658 (a) the state;

1659 (b) a school district; or

1660 (c) a charter school.

1661 (59) "Specified public utility" means an electrical corporation, gas corporation, or  
1662 telephone corporation, as those terms are defined in Section [54-2-1](#).

1663 (60) "State" includes any department, division, or agency of the state.

1664 (61) "Street" means a public right-of-way, including a highway, avenue, boulevard,  
1665 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other  
1666 way.

1667 (62) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be  
1668 divided into two or more lots, parcels, sites, units, plots, or other division of land for the  
1669 purpose, whether immediate or future, for offer, sale, lease, or development either on the  
1670 installment plan or upon any and all other plans, terms, and conditions.

- 1671 (b) "Subdivision" includes:
- 1672 (i) the division or development of land whether by deed, metes and bounds description,  
1673 devise and testacy, map, plat, or other recorded instrument; and
- 1674 (ii) except as provided in Subsection (62)(c), divisions of land for residential and  
1675 nonresidential uses, including land used or to be used for commercial, agricultural, and  
1676 industrial purposes.
- 1677 (c) "Subdivision" does not include:
- 1678 (i) a bona fide division or partition of agricultural land for agricultural purposes;
- 1679 (ii) a recorded agreement between owners of adjoining properties adjusting their  
1680 mutual boundary if:
- 1681 (A) no new lot is created; and
- 1682 (B) the adjustment does not violate applicable land use ordinances;
- 1683 (iii) a recorded document, executed by the owner of record:
- 1684 (A) revising the legal description of more than one contiguous unsubdivided parcel of  
1685 property into one legal description encompassing all such parcels of property; or
- 1686 (B) joining a subdivided parcel of property to another parcel of property that has not  
1687 been subdivided, if the joinder does not violate applicable land use ordinances;
- 1688 (iv) a bona fide division or partition of land in a county other than a first class county  
1689 for the purpose of siting, on one or more of the resulting separate parcels:
- 1690 (A) an electrical transmission line or a substation;
- 1691 (B) a natural gas pipeline or a regulation station; or
- 1692 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other  
1693 utility service regeneration, transformation, retransmission, or amplification facility;
- 1694 (v) a recorded agreement between owners of adjoining subdivided properties adjusting  
1695 their mutual boundary if:
- 1696 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 1697 (B) the adjustment will not violate any applicable land use ordinance;
- 1698 (vi) a bona fide division or partition of land by deed or other instrument where the land  
1699 use authority expressly approves in writing the division in anticipation of further land use  
1700 approvals on the parcel or parcels; or
- 1701 (vii) a parcel boundary adjustment.

1702 (d) The joining of a subdivided parcel of property to another parcel of property that has  
1703 not been subdivided does not constitute a subdivision under this Subsection (62) as to the  
1704 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision  
1705 ordinance.

1706 (63) "Suspect soil" means soil that has:

1707 (a) a high susceptibility for volumetric change, typically clay rich, having more than a  
1708 3% swell potential;

1709 (b) bedrock units with high shrink or swell susceptibility; or

1710 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum  
1711 commonly associated with dissolution and collapse features.

1712 (64) "Therapeutic school" means a residential group living facility:

1713 (a) for four or more individuals who are not related to:

1714 (i) the owner of the facility; or

1715 (ii) the primary service provider of the facility;

1716 (b) that serves students who have a history of failing to function:

1717 (i) at home;

1718 (ii) in a public school; or

1719 (iii) in a nonresidential private school; and

1720 (c) that offers:

1721 (i) room and board; and

1722 (ii) an academic education integrated with:

1723 (A) specialized structure and supervision; or

1724 (B) services or treatment related to a disability, an emotional development, a  
1725 behavioral development, a familial development, or a social development.

1726 (65) "Transferable development right" means a right to develop and use land that  
1727 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer  
1728 land use rights from a designated sending zone to a designated receiving zone.

1729 (66) "Unincorporated" means the area outside of the incorporated area of a  
1730 municipality.

1731 (67) "Water interest" means any right to the beneficial use of water, including:

1732 (a) each of the rights listed in Section 73-1-11; and

1733 (b) an ownership interest in the right to the beneficial use of water represented by:

1734 (i) a contract; or

1735 (ii) a share in a water company, as defined in Section 73-3-3.5.

1736 (68) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts  
1737 land use zones, overlays, or districts.

1738 Section 14. Section 17-27a-305 is amended to read:

1739 **17-27a-305. Other entities required to conform to county's land use ordinances --**

1740 **Exceptions -- School districts and charter schools -- Submission of development plan and**

1741 **schedule.**

1742 (1) (a) Each county, municipality, school district, charter school, local district, special  
1743 service district, and political subdivision of the state shall conform to any applicable land use  
1744 ordinance of any county when installing, constructing, operating, or otherwise using any area,  
1745 land, or building situated within a mountainous planning district or the unincorporated portion  
1746 of the county, as applicable.

1747 (b) In addition to any other remedies provided by law, when a county's land use  
1748 ordinance is violated or about to be violated by another political subdivision, that county may  
1749 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to  
1750 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1751 (2) (a) Except as provided in Subsection (3), a school district or charter school is  
1752 subject to a county's land use ordinances.

1753 (b) (i) Notwithstanding Subsection (3), a county may:

1754 (A) subject a charter school to standards within each zone pertaining to setback, height,  
1755 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction  
1756 staging; and

1757 (B) impose regulations upon the location of a project that are necessary to avoid  
1758 unreasonable risks to health or safety, as provided in Subsection (3)(f).

1759 (ii) The standards to which a county may subject a charter school under Subsection  
1760 (2)(b)(i) shall be objective standards only and may not be subjective.

1761 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may  
1762 deny or withhold approval of a charter school's land use application is the charter school's  
1763 failure to comply with a standard imposed under Subsection (2)(b)(i).

1764 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an  
1765 obligation to comply with a requirement of an applicable building or safety code to which it is  
1766 otherwise obligated to comply.

1767 (3) A county may not:

1768 (a) impose requirements for landscaping, fencing, aesthetic considerations,  
1769 construction methods or materials, additional building inspections, county building codes,  
1770 building use for educational purposes, or the placement or use of temporary classroom facilities  
1771 on school property;

1772 (b) except as otherwise provided in this section, require a school district or charter  
1773 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a  
1774 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school  
1775 children and not located on or contiguous to school property, unless the roadway or sidewalk is  
1776 required to connect an otherwise isolated school site to an existing roadway;

1777 (c) require a district or charter school to pay fees not authorized by this section;

1778 (d) provide for inspection of school construction or assess a fee or other charges for  
1779 inspection, unless the school district or charter school is unable to provide for inspection by an  
1780 inspector, other than the project architect or contractor, who is qualified under criteria  
1781 established by the state superintendent;

1782 (e) require a school district or charter school to pay any impact fee for an improvement  
1783 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

1784 (f) impose regulations upon the location of an educational facility except as necessary  
1785 to avoid unreasonable risks to health or safety; or

1786 (g) for a land use or a structure owned or operated by a school district or charter school  
1787 that is not an educational facility but is used in support of providing instruction to pupils,  
1788 impose a regulation that:

1789 (i) is not imposed on a similar land use or structure in the zone in which the land use or  
1790 structure is approved; or

1791 (ii) uses the tax exempt status of the school district or charter school as criteria for  
1792 prohibiting or regulating the land use or location of the structure.

1793 (4) Subject to Section [~~53A-20-108~~] [53E-3-710](#), a school district or charter school shall  
1794 coordinate the siting of a new school with the county in which the school is to be located, to:

- 1795 (a) avoid or mitigate existing and potential traffic hazards, including consideration of  
1796 the impacts between the new school and future highways; and
- 1797 (b) maximize school, student, and site safety.
- 1798 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:
- 1799 (a) provide a walk-through of school construction at no cost and at a time convenient to  
1800 the district or charter school; and
- 1801 (b) provide recommendations based upon the walk-through.
- 1802 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:
- 1803 (i) a county building inspector;
- 1804 (ii) (A) for a school district, a school district building inspector from that school  
1805 district; or
- 1806 (B) for a charter school, a school district building inspector from the school district in  
1807 which the charter school is located; or
- 1808 (iii) an independent, certified building inspector who is:
- 1809 (A) not an employee of the contractor;
- 1810 (B) approved by:
- 1811 (I) a county building inspector; or
- 1812 (II) (Aa) for a school district, a school district building inspector from that school  
1813 district; or
- 1814 (Bb) for a charter school, a school district building inspector from the school district in  
1815 which the charter school is located; and
- 1816 (C) licensed to perform the inspection that the inspector is requested to perform.
- 1817 (b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.
- 1818 (c) If a school district or charter school uses a school district or independent building  
1819 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to  
1820 the state superintendent of public instruction and county building official, on a monthly basis  
1821 during construction of the school building, a copy of each inspection certificate regarding the  
1822 school building.
- 1823 (7) (a) A charter school shall be considered a permitted use in all zoning districts  
1824 within a county.
- 1825 (b) Each land use application for any approval required for a charter school, including

1826 an application for a building permit, shall be processed on a first priority basis.

1827 (c) Parking requirements for a charter school may not exceed the minimum parking  
1828 requirements for schools or other institutional public uses throughout the county.

1829 (d) If a county has designated zones for a sexually oriented business, or a business  
1830 which sells alcohol, a charter school may be prohibited from a location which would otherwise  
1831 defeat the purpose for the zone unless the charter school provides a waiver.

1832 (e) (i) A school district or a charter school may seek a certificate authorizing permanent  
1833 occupancy of a school building from:

1834 (A) the state superintendent of public instruction, as provided in Subsection  
1835 ~~[53A-20-104]~~ [53E-3-706\(3\)](#), if the school district or charter school used an independent  
1836 building inspector for inspection of the school building; or

1837 (B) a county official with authority to issue the certificate, if the school district or  
1838 charter school used a county building inspector for inspection of the school building.

1839 (ii) A school district may issue its own certificate authorizing permanent occupancy of  
1840 a school building if it used its own building inspector for inspection of the school building,  
1841 subject to the notification requirement of Subsection ~~[53A-20-104]~~ [53E-3-706\(3\)\(a\)\(ii\)](#).

1842 (iii) A charter school may seek a certificate authorizing permanent occupancy of a  
1843 school building from a school district official with authority to issue the certificate, if the  
1844 charter school used a school district building inspector for inspection of the school building.

1845 (iv) A certificate authorizing permanent occupancy issued by the state superintendent  
1846 of public instruction under Subsection ~~[53A-20-104]~~ [53E-3-706\(3\)](#) or a school district official  
1847 with authority to issue the certificate shall be considered to satisfy any county requirement for  
1848 an inspection or a certificate of occupancy.

1849 (8) (a) A specified public agency intending to develop its land shall submit to the land  
1850 use authority a development plan and schedule:

1851 (i) as early as practicable in the development process, but no later than the  
1852 commencement of construction; and

1853 (ii) with sufficient detail to enable the land use authority to assess:

1854 (A) the specified public agency's compliance with applicable land use ordinances;

1855 (B) the demand for public facilities listed in Subsections [11-36a-102\(16\)\(a\)](#), (b), (c),

1856 (d), (e), and (g) caused by the development;

1857 (C) the amount of any applicable fee described in Section 17-27a-509;

1858 (D) any credit against an impact fee; and

1859 (E) the potential for waiving an impact fee.

1860 (b) The land use authority shall respond to a specified public agency's submission  
1861 under Subsection (8)(a) with reasonable promptness in order to allow the specified public  
1862 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the  
1863 process of preparing the budget for the development.

1864 (9) Nothing in this section may be construed to:

1865 (a) modify or supersede Section 17-27a-304; or

1866 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that  
1867 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing  
1868 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of  
1869 1990, 42 U.S.C. 12102, or any other provision of federal law.

1870 Section 15. Section 20A-1-203 is amended to read:

1871 **20A-1-203. Calling and purpose of special elections -- Two-thirds vote**  
1872 **limitations.**

1873 (1) Statewide and local special elections may be held for any purpose authorized by  
1874 law.

1875 (2) (a) Statewide special elections shall be conducted using the procedure for regular  
1876 general elections.

1877 (b) Except as otherwise provided in this title, local special elections shall be conducted  
1878 using the procedures for regular municipal elections.

1879 (3) The governor may call a statewide special election by issuing an executive order  
1880 that designates:

1881 (a) the date for the statewide special election; and

1882 (b) the purpose for the statewide special election.

1883 (4) The Legislature may call a statewide special election by passing a joint or  
1884 concurrent resolution that designates:

1885 (a) the date for the statewide special election; and

1886 (b) the purpose for the statewide special election.

1887 (5) (a) The legislative body of a local political subdivision may call a local special

- 1888 election only for:
- 1889 (i) a vote on a bond or debt issue;
- 1890 (ii) a vote on a voted local levy authorized by Section [~~53A-16-110~~] [53F-8-402](#) or
- 1891 [~~53A-17a-133~~] [53F-8-301](#);
- 1892 (iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;
- 1893 (iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;
- 1894 (v) if required or authorized by federal law, a vote to determine whether or not Utah's
- 1895 legal boundaries should be changed;
- 1896 (vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;
- 1897 (vii) a vote to elect members to school district boards for a new school district and a
- 1898 remaining school district, as defined in Section [~~53A-2-117~~] [53G-3-102](#), following the creation
- 1899 of a new school district under Section [~~53A-2-118.1~~] [53G-3-302](#);
- 1900 (viii) a vote on a municipality providing cable television services or public
- 1901 telecommunications services under Section [10-18-204](#);
- 1902 (ix) a vote to create a new county under Section [17-3-1](#);
- 1903 (x) a vote on the creation of a study committee under Sections [17-52-202](#) and
- 1904 [17-52-203.5](#);
- 1905 (xi) a vote on a special property tax under Section [~~53A-16-110~~] [53F-8-402](#);
- 1906 (xii) a vote on the incorporation of a city in accordance with Section [10-2a-210](#);
- 1907 (xiii) a vote on the incorporation of a town in accordance with Section [10-2a-304](#); or
- 1908 (xiv) a vote on incorporation or annexation as described in Section [10-2a-404](#).
- 1909 (b) The legislative body of a local political subdivision may call a local special election
- 1910 by adopting an ordinance or resolution that designates:
- 1911 (i) the date for the local special election as authorized by Section [20A-1-204](#); and
- 1912 (ii) the purpose for the local special election.
- 1913 (c) A local political subdivision may not call a local special election unless the
- 1914 ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a
- 1915 two-thirds majority of all members of the legislative body, if the local special election is for:
- 1916 (i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);
- 1917 (ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or
- 1918 (iii) a vote authorized or required for a sales tax issue as described in Subsection

1919 (5)(a)(vi).

1920 Section 16. Section **20A-14-206** is amended to read:

1921 **20A-14-206. Student petition for student member on local school board.**

1922 (1) A student petition requesting that a local school board appoint a nonvoting student  
1923 member to the board may be submitted to the board under this section.

1924 (2) The petition shall have the signatures of at least 500 students regularly enrolled in  
1925 high school in the district or at least 10% of the number of students regularly enrolled in high  
1926 school in the district, whichever is less.

1927 (3) (a) Upon receipt of the petition, the board may appoint a nonvoting student member  
1928 to serve a one-year term on the local school board as an addition to the number of regular  
1929 members authorized by law.

1930 (b) A student member's term begins July 1 and ends on June 30 of the following year.

1931 (4) A student board member shall be enrolled in a high school in the district and may  
1932 be less than 18 years old.

1933 (5) A student member may participate in all board meetings, except executive sessions.

1934 (6) (a) A student board member shall receive the same expense allowance granted  
1935 other board members under Section [~~53A-3-202~~] [53G-4-204](#).

1936 (b) A student member is not liable for any acts of the governing board.

1937 Section 17. Section **26-1-17.5 (Superseded 07/01/18)** is amended to read:

1938 **26-1-17.5 (Superseded 07/01/18). Confidential records.**

1939 (1) A record classified as confidential under this title shall remain confidential, and be  
1940 released according to the provisions of this title, notwithstanding Section [63G-2-310](#).

1941 (2) In addition to those persons granted access to records described in Subsection  
1942 [63G-2-302\(1\)\(b\)](#), immunization records may be shared among schools, school districts, and  
1943 local and state health departments and the state Department of Human Services as necessary to  
1944 assure compliance with Section [~~53A-11-301~~] [53G-9-302](#) and to prevent, investigate, and  
1945 control the causes of epidemic, infectious, communicable, and other diseases affecting the  
1946 public health.

1947 Section 18. Section **26-1-17.5 (Effective 07/01/18)** is amended to read:

1948 **26-1-17.5 (Effective 07/01/18). Confidential records.**

1949 (1) A record classified as confidential under this title shall remain confidential, and be

1950 released according to the provisions of this title, notwithstanding Section [63G-2-310](#).

1951 (2) In addition to those persons granted access to a private record described in  
1952 Subsection [63G-2-302\(1\)\(b\)](#), schools, school districts, and local and state health departments  
1953 and the state Department of Human Services may share an immunization record as defined in  
1954 Section [~~53A-11-300.5~~] [53G-9-301](#) or any other record relating to a vaccination or  
1955 immunization as necessary to ensure compliance with Title 53A, Chapter 11, Part 3,  
1956 Immunization of Students, and to prevent, investigate, and control the causes of epidemic,  
1957 infectious, communicable, and other diseases affecting the public health.

1958 Section 19. Section **26-7-9 (Effective 07/01/18)** is amended to read:

1959 **26-7-9 (Effective 07/01/18). Online public health education module.**

1960 (1) As used in this section:

1961 (a) "Health care provider" means the same as that term is defined in Section  
1962 [78B-3-403](#).

1963 (b) "Nonimmune" means that a child or an individual:

1964 (i) has not received each vaccine required in Section [~~53A-11-303~~] [53G-9-305](#) and has  
1965 not developed a natural immunity through previous illness to a vaccine-preventable disease, as  
1966 documented by a health care provider;

1967 (ii) cannot receive each vaccine required in Section [~~53A-11-303~~] [53G-9-305](#); or

1968 (iii) is otherwise known to not be immune to a vaccine-preventable disease.

1969 (c) "Vaccine-preventable disease" means an infectious disease that can be prevented by  
1970 a vaccination required in Section [~~53A-11-303~~] [53G-9-305](#).

1971 (2) The department shall develop an online education module regarding  
1972 vaccine-preventable diseases:

1973 (a) to assist a parent of a nonimmune child to:

1974 (i) recognize the symptoms of vaccine-preventable diseases;

1975 (ii) respond in the case of an outbreak of a vaccine-preventable disease;

1976 (iii) protect children who contract a vaccine-preventable disease; and

1977 (iv) prevent the spread of vaccine-preventable diseases;

1978 (b) that contains only the following:

1979 (i) information about vaccine-preventable diseases necessary to achieve the goals  
1980 stated in Subsection (2)(a), including the best practices to prevent the spread of

1981 vaccine-preventable diseases;  
1982 (ii) recommendations to reduce the likelihood of a nonimmune individual contracting  
1983 or transmitting a vaccine-preventable disease; and

1984 (iii) information about additional available resources related to vaccine-preventable  
1985 diseases and the availability of low-cost vaccines;

1986 (c) that includes interactive questions or activities; and

1987 (d) that is expected to take an average user 20 minutes or less to complete, based on  
1988 user testing.

1989 (3) In developing the online education module described in Subsection (2), the  
1990 department shall consult with individuals interested in vaccination or vaccine-preventable  
1991 diseases, including:

1992 (a) representatives from organizations of health care professionals; and

1993 (b) parents of nonimmune children.

1994 (4) The department shall make the online education module described in Subsection  
1995 (2) publicly available to parents through:

1996 (a) a link on the department's website;

1997 (b) county health departments, as that term is defined in Section [26A-1-102](#);

1998 (c) local health departments, as that term is defined in Section [26A-1-102](#);

1999 (d) local education agencies, as that term is defined in Section ~~[53A-1-401]~~ [53E-3-401](#);

2000 and

2001 (e) other public health programs or organizations.

2002 (5) The department shall report to the Health and Human Services Interim Committee  
2003 before November 30, 2018, regarding compliance with this section.

2004 Section 20. Section **26-10-6** is amended to read:

2005 **26-10-6. Testing of newborn infants.**

2006 (1) Except in the case where parents object on the grounds that they are members of a  
2007 specified, well-recognized religious organization whose teachings are contrary to the tests  
2008 required by this section, a newborn infant shall be tested for:

2009 (a) phenylketonuria (PKU);

2010 (b) other heritable disorders which may result in an intellectual or physical disability or  
2011 death and for which:

- 2012 (i) a preventive measure or treatment is available; and
- 2013 (ii) there exists a reliable laboratory diagnostic test method;
- 2014 (c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss;
- 2015 and
- 2016 (ii) an infant born in a setting other than a hospital with 100 or more live births
- 2017 annually, hearing loss; and
- 2018 (d) critical congenital heart defects using pulse oximetry.
- 2019 (2) In accordance with Section [26-1-6](#), the department may charge fees for:
- 2020 (a) materials supplied by the department to conduct tests required under Subsection (1);
- 2021 (b) tests required under Subsection (1) conducted by the department;
- 2022 (c) laboratory analyses by the department of tests conducted under Subsection (1); and
- 2023 (d) the administrative cost of follow-up contacts with the parents or guardians of tested
- 2024 infants.
- 2025 (3) Tests for hearing loss described in Subsection (1) shall be based on one or more
- 2026 methods approved by the Newborn Hearing Screening Committee, including:
- 2027 (a) auditory brainstem response;
- 2028 (b) automated auditory brainstem response; and
- 2029 (c) evoked otoacoustic emissions.
- 2030 (4) Results of tests for hearing loss described in Subsection (1) shall be reported to:
- 2031 (a) the department; and
- 2032 (b) when results of tests for hearing loss under Subsection (1) suggest that additional
- 2033 diagnostic procedures or medical interventions are necessary:
- 2034 (i) a parent or guardian of the infant;
- 2035 (ii) an early intervention program administered by the department in accordance with
- 2036 Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and
- 2037 (iii) the Utah Schools for the Deaf and the Blind, created in Section [~~53A-25b-103~~]
- 2038 [53E-8-201](#).
- 2039 (5) (a) There is established the Newborn Hearing Screening Committee.
- 2040 (b) The committee shall advise the department on:
- 2041 (i) the validity and cost of newborn infant hearing loss testing procedures; and
- 2042 (ii) rules promulgated by the department to implement this section.

- 2043 (c) The committee shall be composed of at least 11 members appointed by the  
2044 executive director, including:
- 2045 (i) one representative of the health insurance industry;
  - 2046 (ii) one pediatrician;
  - 2047 (iii) one family practitioner;
  - 2048 (iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;
  - 2049 (v) two audiologists nominated by the Utah Speech-Language-Hearing Association;
  - 2050 (vi) one representative of hospital neonatal nurseries;
  - 2051 (vii) one representative of the Early Intervention Baby Watch Program administered by  
2052 the department;
  - 2053 (viii) one public health nurse;
  - 2054 (ix) one consumer; and
  - 2055 (x) the executive director or the executive director's designee.
- 2056 (d) Of the initial members of the committee, the executive director shall appoint as  
2057 nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments  
2058 shall be for four-year terms except:
- 2059 (i) for those members who have been appointed to complete an unexpired term; and
  - 2060 (ii) as necessary to ensure that as nearly as possible the terms of half the appointments  
2061 expire every two years.
- 2062 (e) A majority of the members constitute a quorum, and a vote of the majority of the  
2063 members present constitutes an action of the committee.
- 2064 (f) The committee shall appoint a chairman from the committee's membership.
- 2065 (g) The committee shall meet at least quarterly.
- 2066 (h) A member may not receive compensation or benefits for the member's service, but  
2067 may receive per diem and travel expenses in accordance with:
- 2068 (i) Section [63A-3-106](#);
  - 2069 (ii) Section [63A-3-107](#); and
  - 2070 (iii) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
2071 [63A-3-107](#).
- 2072 (i) The department shall provide staff for the committee.
- 2073 (6) Before implementing the test required by Subsection (1)(d), the department shall

2074 conduct a pilot program for testing newborns for critical congenital heart defects using pulse  
2075 oximetry. The pilot program shall include the development of:

2076 (a) appropriate oxygen saturation levels that would indicate a need for further medical  
2077 follow-up; and

2078 (b) the best methods for implementing the pulse oximetry screening in newborn care  
2079 units.

2080 Section 21. Section **26-10-9 (Superseded 07/01/18)** is amended to read:

2081 **26-10-9 (Superseded 07/01/18). Immunizations -- Consent of minor to treatment.**

2082 (1) This section:

2083 (a) is not intended to interfere with the integrity of the family or to minimize the rights  
2084 of parents or children; and

2085 (b) applies to a minor, who at the time care is sought is:

2086 (i) married or has been married;

2087 (ii) emancipated as provided for in Section [78A-6-805](#);

2088 (iii) a parent with custody of a minor child; or

2089 (iv) pregnant.

2090 (2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

2091 (i) immunizations against epidemic infections and communicable diseases as defined  
2092 in Section [26-6-2](#); and

2093 (ii) examinations and immunizations required to attend school as provided in [~~Title~~  
2094 ~~53A, Chapter 11, Students in Public Schools~~] Title 53G, Public Education System -- Local  
2095 Administration.

2096 (b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the  
2097 immunizations described in Subsections (2)(a)(i) and (ii), and the vaccine for human  
2098 papillomavirus only if:

2099 (i) the minor represents to the health care provider that the minor is an abandoned  
2100 minor as defined in Section [76-5-109](#); and

2101 (ii) the health care provider makes a notation in the minor's chart that the minor  
2102 represented to the health care provider that the minor is an abandoned minor under Section  
2103 [76-5-109](#).

2104 (c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a

2105 minor.

2106 (3) The consent of the minor pursuant to this section:

2107 (a) is not subject to later disaffirmance because of the minority of the person receiving  
2108 the medical services;

2109 (b) is not voidable because of minority at the time the medical services were provided;

2110 (c) has the same legal effect upon the minor and the same legal obligations with regard  
2111 to the giving of consent as consent given by a person of full age and capacity; and

2112 (d) does not require the consent of any other person or persons to authorize the medical  
2113 services described in Subsections (2)(a) and (b).

2114 (4) A health care provider who provides medical services to a minor in accordance  
2115 with the provisions of this section is not subject to civil or criminal liability for providing the  
2116 services described in Subsections (2)(a) and (b) without obtaining the consent of another  
2117 person prior to rendering the medical services.

2118 (5) This section does not remove the requirement for parental consent or notice when  
2119 required by Section [76-7-304](#) or [76-7-304.5](#).

2120 (6) The parents, parent, or legal guardian of a minor who receives medical services  
2121 pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless  
2122 the parents, parent, or legal guardian consented to the medical services.

2123 Section 22. Section **26-10-9 (Effective 07/01/18)** is amended to read:

2124 **26-10-9 (Effective 07/01/18). Immunizations -- Consent of minor to treatment.**

2125 (1) This section:

2126 (a) is not intended to interfere with the integrity of the family or to minimize the rights  
2127 of parents or children; and

2128 (b) applies to a minor, who at the time care is sought is:

2129 (i) married or has been married;

2130 (ii) emancipated as provided for in Section [78A-6-805](#);

2131 (iii) a parent with custody of a minor child; or

2132 (iv) pregnant.

2133 (2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

2134 (i) vaccinations against epidemic infections and communicable diseases as defined in  
2135 Section [26-6-2](#); and

2136 (ii) examinations and vaccinations required to attend school as provided in [~~Title 53A,~~  
2137 ~~Chapter 11, Students in Public Schools~~] Title 53G, Public Education System -- Local  
2138 Administration.

2139 (b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the  
2140 vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for human  
2141 papillomavirus only if:

2142 (i) the minor represents to the health care provider that the minor is an abandoned  
2143 minor as defined in Section 76-5-109; and

2144 (ii) the health care provider makes a notation in the minor's chart that the minor  
2145 represented to the health care provider that the minor is an abandoned minor under Section  
2146 76-5-109.

2147 (c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a  
2148 minor.

2149 (3) The consent of the minor pursuant to this section:

2150 (a) is not subject to later disaffirmance because of the minority of the person receiving  
2151 the medical services;

2152 (b) is not voidable because of minority at the time the medical services were provided;

2153 (c) has the same legal effect upon the minor and the same legal obligations with regard  
2154 to the giving of consent as consent given by a person of full age and capacity; and

2155 (d) does not require the consent of any other person or persons to authorize the medical  
2156 services described in Subsections (2)(a) and (b).

2157 (4) A health care provider who provides medical services to a minor in accordance  
2158 with the provisions of this section is not subject to civil or criminal liability for providing the  
2159 services described in Subsections (2)(a) and (b) without obtaining the consent of another  
2160 person prior to rendering the medical services.

2161 (5) This section does not remove the requirement for parental consent or notice when  
2162 required by Section 76-7-304 or 76-7-304.5.

2163 (6) The parents, parent, or legal guardian of a minor who receives medical services  
2164 pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless  
2165 the parents, parent, or legal guardian consented to the medical services.

2166 Section 23. Section 26-10-10 is amended to read:

- 2167           **26-10-10. Cytomegalovirus (CMV) public education and testing.**
- 2168           (1) As used in this section "CMV" means cytomegalovirus.
- 2169           (2) The department shall establish and conduct a public education program to inform
- 2170 pregnant women and women who may become pregnant regarding:
- 2171           (a) the incidence of CMV;
- 2172           (b) the transmission of CMV to pregnant women and women who may become
- 2173 pregnant;
- 2174           (c) birth defects caused by congenital CMV;
- 2175           (d) methods of diagnosing congenital CMV; and
- 2176           (e) available preventative measures.
- 2177           (3) The department shall provide the information described in Subsection (2) to:
- 2178           (a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing
- 2179 Act, and their employees;
- 2180           (b) a person described in Subsection [26-39-403\(1\)\(c\)](#), (f), (g), (h), (j), or (k);
- 2181           (c) a person serving as a school nurse under Section ~~[53A-11-204]~~ [53G-9-204](#);
- 2182           (d) a person offering health education in a school district;
- 2183           (e) health care providers offering care to pregnant women and infants; and
- 2184           (f) religious, ecclesiastical, or denominational organizations offering children's
- 2185 programs as a part of worship services.
- 2186           (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection
- 2187 [26-10-6\(1\)](#), a medical practitioner shall:
- 2188           (a) test the newborn infant for CMV before the newborn is 21 days of age, unless a
- 2189 parent of the newborn infant objects; and
- 2190           (b) provide to the parents of the newborn infant information regarding:
- 2191           (i) birth defects caused by congenital CMV; and
- 2192           (ii) available methods of treatment.
- 2193           (5) The department shall provide to the family and the medical practitioner, if known,
- 2194 information regarding the testing requirements under Subsection (4) when providing results
- 2195 indicating that an infant has failed the newborn hearing screening test(s) under Subsection
- 2196 [26-10-6\(1\)](#).
- 2197           (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah

2198 Administrative Rulemaking Act, as necessary to administer the provisions of this section.

2199 Section 24. Section **26-10-11** is amended to read:

2200 **26-10-11. Children's Hearing Aid Program.**

2201 (1) The department shall offer a program to provide hearing aids to children who  
2202 qualify under this section.

2203 (2) The department shall provide hearing aids to a child who:

2204 (a) is younger than six years old;

2205 (b) is a resident of Utah;

2206 (c) has been diagnosed with hearing loss by:

2207 (i) an audiologist with pediatric expertise; and

2208 (ii) a physician;

2209 (d) provides documentation from an audiologist with pediatric expertise certifying that  
2210 the child needs hearing aids;

2211 (e) has obtained medical clearance by a medical provider for hearing aid fitting;

2212 (f) does not qualify to receive a contribution that equals the full cost of a hearing aid  
2213 from the state's Medicaid program or the Utah Children's Health Insurance Program; and

2214 (g) meets the financial need qualification criteria established by the department by rule,  
2215 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
2216 participation in the program.

2217 (3) (a) There is established the Children's Hearing Aid Advisory Committee.

2218 (b) The committee shall be composed of five members appointed by the executive  
2219 director, and shall include:

2220 (i) one audiologist with pediatric expertise;

2221 (ii) one speech language pathologist;

2222 (iii) one teacher, certified under [~~Title 53A, State System of Public Education~~] Title  
2223 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening  
2224 and spoken language therapist;

2225 (iv) one ear, nose, and throat specialist; and

2226 (v) one parent whose child:

2227 (A) is six years old or older; and

2228 (B) has hearing loss.

- 2229 (c) A majority of the members constitutes a quorum.
- 2230 (d) A vote of the majority of the members, with a quorum present, constitutes an action  
2231 of the committee.
- 2232 (e) The committee shall elect a chair from its members.
- 2233 (f) The committee shall:
- 2234 (i) meet at least quarterly;
- 2235 (ii) recommend to the department medical criteria and procedures for selecting children  
2236 who may qualify for assistance from the account; and
- 2237 (iii) review rules developed by the department.
- 2238 (g) A member may not receive compensation or benefits for the member's service, but  
2239 may receive per diem and travel expenses in accordance with Sections [63A-3-106](#) and  
2240 [63A-3-107](#) and rules made by the Division of Finance, pursuant to Sections [63A-3-106](#) and  
2241 [63A-3-107](#).
- 2242 (h) The department shall provide staff to the committee.
- 2243 (4) (a) There is created within the General Fund a restricted account known as the  
2244 "Children's Hearing Aid Program Restricted Account."
- 2245 (b) The Children's Hearing Aid Program Restricted Account shall consist of:
- 2246 (i) amounts appropriated to the account by the Legislature; and
- 2247 (ii) gifts, grants, devises, donations, and bequests of real property, personal property, or  
2248 services, from any source, or any other conveyance that may be made to the account from  
2249 private sources.
- 2250 (c) Upon appropriation, all actual and necessary operating expenses for the committee  
2251 described in Subsection (3) shall be paid by the account.
- 2252 (d) Upon appropriation, no more than 9% of the account money may be used for the  
2253 department's expenses.
- 2254 (e) If this account is repealed in accordance with Section [63I-1-226](#), any remaining  
2255 assets in the account shall be deposited into the General Fund.
- 2256 (5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2257 Administrative Rulemaking Act, to establish procedures for:
- 2258 (a) identifying the children who are financially eligible to receive services under the  
2259 program; and

2260 (b) reviewing and paying for services provided to a child under the program.  
2261 (6) The department shall, before December 1 of each year, submit a report to the  
2262 Health and Human Services Interim Committee that describes the operation and  
2263 accomplishments of the program.

2264 Section 25. Section **26-39-402 (Superseded 07/01/18)** is amended to read:  
2265 **26-39-402 (Superseded 07/01/18). Residential child care certificate.**

2266 (1) (a) A residential child care provider of five to eight qualifying children shall obtain  
2267 a Residential Child Care Certificate from the department, unless Section **26-39-403** applies.

2268 (b) The minimum qualifications for a Residential Child Care Certificate are:

2269 (i) the submission of:

2270 (A) an application in the form prescribed by the department;

2271 (B) a certification and criminal background fee established in accordance with Section  
2272 **26-1-6**; and

2273 (C) in accordance with Section **26-39-404**, identifying information for each adult  
2274 person and each juvenile age 12 through 17 years of age who resides in the provider's home:

2275 (I) for processing by the Department of Public Safety to determine whether any such  
2276 person has been convicted of a crime;

2277 (II) to screen for a substantiated finding of child abuse or neglect by a juvenile court;  
2278 and

2279 (III) to discover whether the person is listed in the Licensing Information System  
2280 described in Section **62A-4a-1006**;

2281 (ii) an initial and annual inspection of the provider's home within 90 days of sending an  
2282 intent to inspect notice to:

2283 (A) check the immunization record of each qualifying child who receives child care in  
2284 the provider's home;

2285 (B) identify serious sanitation, fire, and health hazards to qualifying children; and

2286 (C) make appropriate recommendations; and

2287 (iii) annual training consisting of 10 hours of department-approved training as  
2288 specified by the department by administrative rule, including a current department-approved  
2289 CPR and first aid course.

2290 (c) If a serious sanitation, fire, or health hazard has been found during an inspection

2291 conducted pursuant to Subsection (1)(b)(ii), the department shall require corrective action for  
2292 the serious hazards found and make an unannounced follow up inspection to determine  
2293 compliance.

2294 (d) In addition to an inspection conducted pursuant to Subsection (1)(b)(ii), the  
2295 department may inspect the home of a residential care provider of five to eight qualifying  
2296 children in response to a complaint of:

2297 (i) child abuse or neglect;

2298 (ii) serious health hazards in or around the provider's home; or

2299 (iii) providing residential child care without the appropriate certificate or license.

2300 (2) Notwithstanding this section:

2301 (a) a license under Section 26-39-401 is required of a residential child care provider  
2302 who cares for nine or more qualifying children;

2303 (b) a certified residential child care provider may not provide care to more than two  
2304 qualifying children under the age of two; and

2305 (c) an inspection may be required of a residential child care provider in connection  
2306 with a federal child care program.

2307 (3) With respect to residential child care, the department may only make and enforce  
2308 rules necessary to implement this section.

2309 Section 26. Section 26-39-402 (Effective 07/01/18) is amended to read:

2310 **26-39-402 (Effective 07/01/18). Residential child care certificate.**

2311 (1) A residential child care provider of five to eight qualifying children shall obtain a  
2312 Residential Child Care Certificate from the department, unless Section 26-39-403 applies.

2313 (2) The minimum qualifications for a Residential Child Care Certificate are:

2314 (a) the submission of:

2315 (i) an application in the form prescribed by the department;

2316 (ii) a certification and criminal background fee established in accordance with Section  
2317 26-1-6; and

2318 (iii) in accordance with Section 26-39-404, identifying information for each adult  
2319 person and each juvenile age 12 through 17 years of age who resides in the provider's home:

2320 (A) for processing by the Department of Public Safety to determine whether any such  
2321 person has been convicted of a crime;

2322 (B) to screen for a substantiated finding of child abuse or neglect by a juvenile court;  
2323 and

2324 (C) to discover whether the person is listed in the Licensing Information System  
2325 described in Section [62A-4a-1006](#);

2326 (b) an initial and annual inspection of the provider's home within 90 days of sending an  
2327 intent to inspect notice to:

2328 (i) check the immunization record, as defined in Section [~~53A-11-300.5~~] [53G-9-301](#), of  
2329 each qualifying child who receives child care in the provider's home;

2330 (ii) identify serious sanitation, fire, and health hazards to qualifying children; and

2331 (iii) make appropriate recommendations; and

2332 (c) annual training consisting of 10 hours of department-approved training as specified  
2333 by the department by administrative rule, including a current department-approved CPR and  
2334 first aid course.

2335 (3) If a serious sanitation, fire, or health hazard has been found during an inspection  
2336 conducted pursuant to Subsection (2)(b), the department shall require corrective action for the  
2337 serious hazards found and make an unannounced follow up inspection to determine  
2338 compliance.

2339 (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the  
2340 department may inspect the home of a residential care provider of five to eight qualifying  
2341 children in response to a complaint of:

2342 (a) child abuse or neglect;

2343 (b) serious health hazards in or around the provider's home; or

2344 (c) providing residential child care without the appropriate certificate or license.

2345 (5) Notwithstanding this section:

2346 (a) a license under Section [26-39-401](#) is required of a residential child care provider  
2347 who cares for nine or more qualifying children;

2348 (b) a certified residential child care provider may not provide care to more than two  
2349 qualifying children under the age of two; and

2350 (c) an inspection may be required of a residential child care provider in connection  
2351 with a federal child care program.

2352 (6) With respect to residential child care, the department may only make and enforce

2353 rules necessary to implement this section.

2354 Section 27. Section **26-41-106** is amended to read:

2355 **26-41-106. Immunity from liability.**

2356 (1) The following, if acting in good faith, are not liable in any civil or criminal action  
2357 for any act taken or not taken under the authority of this chapter with respect to an anaphylactic  
2358 reaction:

2359 (a) a qualified adult;

2360 (b) a physician, pharmacist, or any other person or entity authorized to prescribe or  
2361 dispense prescription drugs;

2362 (c) a person who conducts training described in Section [26-41-104](#); and

2363 (d) a qualified entity.

2364 (2) Section [~~53A-11-601~~] [53G-9-502](#) does not apply to the administration of an  
2365 epinephrine auto-injector in accordance with this chapter.

2366 (3) This section does not eliminate, limit, or reduce any other immunity from liability  
2367 or defense against liability that may be available under state law.

2368 Section 28. Section **30-1-9** is amended to read:

2369 **30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court**  
2370 **authorization.**

2371 (1) For purposes of this section, "minor" means a male or female under 18 years of age.

2372 (2) (a) If at the time of applying for a license the applicant is a minor, and not before  
2373 married, a license may not be issued without the signed consent of the minor's father, mother,  
2374 or guardian given in person to the clerk; however:

2375 (i) if the parents of the minor are divorced, consent shall be given by the parent having  
2376 legal custody of the minor as evidenced by an oath of affirmation to the clerk;

2377 (ii) if the parents of the minor are divorced and have been awarded joint custody of the  
2378 minor, consent shall be given by the parent having physical custody of the minor the majority  
2379 of the time as evidenced by an oath of affirmation to the clerk; or

2380 (iii) if the minor is not in the custody of a parent, the legal guardian shall provide the  
2381 consent and provide proof of guardianship by court order as well as an oath of affirmation.

2382 (b) If the male or female is 15 years of age, the minor and the parent or guardian of the  
2383 minor shall obtain a written authorization to marry from:

2384 (i) a judge of the court exercising juvenile jurisdiction in the county where either party  
2385 to the marriage resides; or

2386 (ii) a court commissioner as permitted by rule of the Judicial Council.

2387 (3) (a) Before issuing written authorization for a minor to marry, the judge or court  
2388 commissioner shall determine:

2389 (i) that the minor is entering into the marriage voluntarily; and

2390 (ii) the marriage is in the best interests of the minor under the circumstances.

2391 (b) The judge or court commissioner shall require that both parties to the marriage  
2392 complete premarital counseling. This requirement may be waived if premarital counseling is  
2393 not reasonably available.

2394 (c) The judge or court commissioner may require:

2395 (i) that the person continue to attend school, unless excused under Section

2396 ~~[53A-11-102]~~ [53G-6-204](#); and

2397 (ii) any other conditions that the court deems reasonable under the circumstances.

2398 (4) The determination required in Subsection (3) shall be made on the record. Any  
2399 inquiry conducted by the judge or commissioner may be conducted in chambers.

2400 Section 29. Section **32B-2-304** is amended to read:

2401 **32B-2-304. Liquor price -- School lunch program -- Remittance of markup.**

2402 (1) For purposes of this section:

2403 (a) (i) "Landed case cost" means:

2404 (A) the cost of the product; and

2405 (B) inbound shipping costs incurred by the department.

2406 (ii) "Landed case cost" does not include the outbound shipping cost from a warehouse  
2407 of the department to a state store.

2408 (b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

2409 (c) Notwithstanding Section [32B-1-102](#), "small brewer" means a brewer who  
2410 manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt  
2411 beverage.

2412 (2) Except as provided in Subsection (3):

2413 (a) spirituous liquor sold by the department within the state shall be marked up in an  
2414 amount not less than 88% above the landed case cost to the department;

2415 (b) wine sold by the department within the state shall be marked up in an amount not  
2416 less than 88% above the landed case cost to the department;

2417 (c) heavy beer sold by the department within the state shall be marked up in an amount  
2418 not less than 66.5% above the landed case cost to the department; and

2419 (d) a flavored malt beverage sold by the department within the state shall be marked up  
2420 in an amount not less than 88% above the landed case cost to the department.

2421 (3) (a) Liquor sold by the department to a military installation in Utah shall be marked  
2422 up in an amount not less than 17% above the landed case cost to the department.

2423 (b) Except for spirituous liquor sold by the department to a military installation in  
2424 Utah, spirituous liquor that is sold by the department within the state shall be marked up 49%  
2425 above the landed case cost to the department if:

2426 (i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000  
2427 proof gallons of spirituous liquor in a calendar year; and

2428 (ii) the manufacturer applies to the department for a reduced markup.

2429 (c) Except for wine sold by the department to a military installation in Utah, wine that  
2430 is sold by the department within the state shall be marked up 49% above the landed case cost to  
2431 the department if:

2432 (i) the wine is manufactured by a manufacturer producing less than 20,000 gallons of  
2433 wine in a calendar year; and

2434 (ii) the manufacturer applies to the department for a reduced markup.

2435 (d) Except for heavy beer sold by the department to a military installation in Utah,  
2436 heavy beer that is sold by the department within the state shall be marked up 32% above the  
2437 landed case cost to the department if:

2438 (i) a small brewer manufactures the heavy beer; and

2439 (ii) the small brewer applies to the department for a reduced markup.

2440 (e) The department shall verify an amount described in Subsection (3)(b), (c), or (d)  
2441 pursuant to a federal or other verifiable production report.

2442 (4) The department shall deposit 10% of the total gross revenue from sales of liquor  
2443 with the state treasurer to be credited to the Uniform School Fund and used to support the  
2444 school lunch program administered by the State Board of Education under Section

2445 [~~53A-19-201~~] [53E-3-510](#).

2446 (5) This section does not prohibit the department from selling discontinued items at a  
2447 discount.

2448 (6) (a) Except as provided in Section [~~53A-13-114~~] [53F-9-304](#), the department shall  
2449 collect the markup and remit the markup collected by the department under this section:

2450 (i) to the State Tax Commission monthly on or before the last day of the month  
2451 immediately following the last day of the previous month; and

2452 (ii) using a form prescribed by the State Tax Commission.

2453 (b) For liquor provided to a package agency on consignment, the department shall  
2454 remit the markup to the State Tax Commission for the month during which the liquor is  
2455 provided to the package agency regardless of when the package agency pays the department for  
2456 the liquor provided to the package agency.

2457 (c) The State Tax Commission shall deposit revenues remitted to it under Subsection  
2458 (6)(a) into the Markup Holding Fund created in Section [32B-2-301](#).

2459 (d) The assessment, collection, and refund of a markup under this section shall be in  
2460 accordance with Title 59, Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

2461 (e) The department, if it fails to comply with this Subsection (6), is subject to penalties  
2462 as provided in Section [59-1-401](#) and interest as provided in Section [59-1-402](#).

2463 (f) The State Tax Commission may make rules, in accordance with Title 63G, Chapter  
2464 3, Utah Administrative Rulemaking Act, to establish procedures under this Subsection (6).

2465 Section 30. Section [34A-2-104.5](#) is amended to read:

2466 **[34A-2-104.5](#). Nongovernment entity volunteers.**

2467 (1) As used in this section:

2468 (a) (i) "Intern" means a student or trainee who works without pay at a trade or  
2469 occupation in order to gain work experience.

2470 (ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described  
2471 in Section [~~53A-29-103~~] [53G-7-903](#) or [53B-16-403](#).

2472 (b) "Nongovernment entity" means an entity or individual that:

2473 (i) is an employer as provided in Section [34A-2-103](#); and

2474 (ii) is not a government entity.

2475 (c) "Utah minimum wage" means the highest wage designated as Utah's minimum  
2476 wage under Title 34, Chapter 40, Utah Minimum Wage Act.

2477 (d) (i) "Volunteer" means an individual who donates service without pay or other  
2478 compensation except expenses actually and reasonably incurred as approved by the supervising  
2479 nongovernment entity.

2480 (ii) "Volunteer" includes an intern of a nongovernment entity.

2481 (iii) "Volunteer" does not include an individual participating in human subjects  
2482 research to the extent that the participation is governed by federal law or regulation inconsistent  
2483 with this chapter.

2484 (2) A volunteer for a nongovernment entity is not an employee of the nongovernment  
2485 entity for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the  
2486 nongovernment entity elects in accordance with this section to provide coverage under this  
2487 chapter and Chapter 3, Utah Occupational Disease Act.

2488 (3) (a) A nongovernment entity may elect to secure coverage for all of the  
2489 nongovernment entity's volunteers by obtaining coverage for the volunteers in accordance with  
2490 Section [34A-2-201](#) under the same policy it uses to cover the nongovernment entity's  
2491 employees.

2492 (b) If a nongovernment entity obtains coverage under Section [34A-2-201](#) for the  
2493 nongovernment entity's volunteers, for purposes of receiving benefits under this chapter and  
2494 Chapter 3, Utah Occupational Disease Act:

2495 (i) a volunteer is considered an employee of the nongovernment entity; and

2496 (ii) these benefits are the exclusive remedy of the volunteer in accordance with Section  
2497 [34A-2-105](#) for an industrial injury or disease covered by this chapter and Chapter 3, Utah  
2498 Occupational Disease Act.

2499 (4) A nongovernment entity shall keep sufficient records of the nongovernment entity's  
2500 volunteers and the volunteers' duties to determine compliance with this section.

2501 (5) To compute the disability compensation benefits under Subsection (3), the  
2502 disability compensation shall be calculated in accordance with Part 4, Compensation and  
2503 Benefits, with the average weekly wage of the nongovernment volunteer assumed to be the  
2504 Utah minimum wage at the time of the industrial accident or occupational disease that is the  
2505 basis for the volunteer's workers' compensation claim.

2506 (6) A workers' compensation insurer shall calculate the premium for a nongovernment  
2507 entity's volunteer on the basis of the Utah minimum wage on the actual hours the volunteer

2508 provides service to the nongovernment entity, except that a workers' compensation insurer may  
2509 assume 30 hours worked per week if the nongovernment entity does not provide a record of  
2510 actual hours worked. The imputed wages shall be assigned to the class code on the policy that  
2511 best describes the volunteer's duties.

2512 (7) The failure or refusal of a nongovernment entity to make an election under this  
2513 section in regard to volunteers does not alter, have an effect on, or give rise to any implication  
2514 or presumption regarding:

2515 (a) the nongovernment entity's duties or liabilities with respect to volunteers; or

2516 (b) the rights of volunteers.

2517 (8) Subject to Subsection (3)(b)(ii), nothing in this section affects a volunteer's right to  
2518 seek remedies available to the volunteer through a personal insurance policy that the volunteer  
2519 obtains for the volunteer in addition to any workers' compensation benefits obtained under this  
2520 section.

2521 (9) A nongovernment entity shall notify a volunteer of an election under Subsection  
2522 (3)(a) by posting:

2523 (a) printed notices where volunteers are likely to see the notices in conspicuous places  
2524 about the nongovernment entity's place of business; and

2525 (b) notices on a website that the nongovernment entity uses to recruit or provide  
2526 information to volunteers.

2527 Section 31. Section **35A-1-102** is amended to read:

2528 **35A-1-102. Definitions.**

2529 Unless otherwise specified, as used in this title:

2530 (1) "Client" means an individual who the department has determined to be eligible for  
2531 services or benefits under:

2532 (a) Chapter 3, Employment Support Act; and

2533 (b) Chapter 5, Training and Workforce Improvement Act.

2534 (2) "Department" means the Department of Workforce Services created in Section  
2535 [35A-1-103](#).

2536 (3) "Economic service area" means an economic service area established in accordance  
2537 with Chapter 2, Economic Service Areas.

2538 (4) "Employment assistance" means services or benefits provided by the department

2539 under:

2540 (a) Chapter 3, Employment Support Act; and

2541 (b) Chapter 5, Training and Workforce Improvement Act.

2542 (5) "Employment center" is a location in an economic service area where the services  
2543 provided by an economic service area under Section [35A-2-201](#) may be accessed by a client.

2544 (6) "Employment counselor" means an individual responsible for developing an  
2545 employment plan and coordinating the services and benefits under this title in accordance with  
2546 Chapter 2, Economic Service Areas.

2547 (7) "Employment plan" means a written agreement between the department and a client  
2548 that describes:

2549 (a) the relationship between the department and the client;

2550 (b) the obligations of the department and the client; and

2551 (c) the result if an obligation is not fulfilled by the department or the client.

2552 (8) "Executive director" means the executive director of the department appointed  
2553 under Section [35A-1-201](#).

2554 (9) "Government entity" means the state or any county, municipality, local district,  
2555 special service district, or other political subdivision or administrative unit of the state, a state  
2556 institution of higher education as defined in Section [53B-2-101](#), or a local education agency as  
2557 defined in Section [~~[53A-30-102](#)~~] [53G-7-401](#).

2558 (10) "Public assistance" means:

2559 (a) services or benefits provided under Chapter 3, Employment Support Act;

2560 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

2561 (c) foster care maintenance payments provided from the General Fund or under Title  
2562 IV-E of the Social Security Act;

2563 (d) SNAP benefits; and

2564 (e) any other public funds expended for the benefit of a person in need of financial,  
2565 medical, food, housing, or related assistance.

2566 (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under  
2567 Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the  
2568 federal Food Stamp Program.

2569 (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or

2570 privilege available under SNAP.

2571 (13) "Stabilization" means addressing the basic living, family care, and social or  
2572 psychological needs of the client so that the client may take advantage of training or  
2573 employment opportunities provided under this title or through other agencies or institutions.

2574 Section 32. Section **35A-3-304** is amended to read:

2575 **35A-3-304. Assessment -- Participation requirements and limitations --**  
2576 **Employment plan -- Mentors.**

2577 (1) (a) Within 30 business days of the date of enrollment, the department shall provide  
2578 that a parent recipient:

2579 (i) is assigned an employment counselor; and

2580 (ii) completes an assessment provided by the department regarding the parent  
2581 recipient's:

2582 (A) prior work experience;

2583 (B) ability to become employable; and

2584 (C) skills.

2585 (b) The assessment provided under Subsection (1)(a)(ii) shall include a survey to be  
2586 completed by the parent recipient with the assistance of the department.

2587 (2) (a) Within 15 business days of a parent recipient completing an assessment:

2588 (i) the department and the parent recipient shall enter into an employment plan; and

2589 (ii) the parent recipient shall complete a written questionnaire, provided by the  
2590 department, designed to accurately determine the likelihood of the parent recipient having a  
2591 substance use disorder involving the misuse of a controlled substance.

2592 (b) The employment plan shall have a target date for entry into employment.

2593 (c) The department shall provide a copy of the employment plan to the parent recipient.

2594 (d) For the parent recipient, the employment plan may include:

2595 (i) job searching requirements;

2596 (ii) if the parent recipient does not have a high school diploma, participation in an  
2597 educational program to obtain a high school diploma, or its equivalent;

2598 (iii) education or training necessary to obtain employment;

2599 (iv) a combination of work and education or training; and

2600 (v) assisting the Office of Recovery Services in good faith to:

- 2601 (A) establish the paternity of a minor child; and  
2602 (B) establish or enforce a child support order.  
2603 (e) If the parent recipient tests positive for the unlawful use of a controlled substance  
2604 after taking a drug test under Section 35A-3-304.5, the employment plan shall include an  
2605 agreement by the parent recipient to:
- 2606 (i) participate in treatment for a substance use disorder; and
  - 2607 (ii) meet the other requirements of Section 35A-3-304.5.
- 2608 (f) The department's responsibilities under the employment plan may include:
- 2609 (i) providing cash and other types of public and employment assistance, including child  
2610 care;
  - 2611 (ii) assisting the parent recipient to obtain education or training necessary for  
2612 employment;
  - 2613 (iii) assisting the parent recipient to set up and follow a household budget; and
  - 2614 (iv) assisting the parent recipient to obtain employment.
- 2615 (g) The department may amend the employment plan to reflect new information or  
2616 changed circumstances.
- 2617 (h) If immediate employment is an activity in the employment plan, the parent recipient  
2618 shall:
- 2619 (i) promptly commence a search for employment for a specified number of hours each  
2620 week; and
  - 2621 (ii) regularly submit a report to the department on:
    - 2622 (A) how time was spent in search for a job;
    - 2623 (B) the number of job applications completed;
    - 2624 (C) the interviews attended;
    - 2625 (D) the offers of employment extended; and
    - 2626 (E) other related information required by the department.
- 2627 (i) (i) If full-time education or training to secure employment is an activity in an  
2628 employment plan, the parent recipient shall promptly undertake a full-time education or  
2629 training program.
- 2630 (ii) The employment plan may describe courses, education or training goals, and  
2631 classroom hours.

2632 (j) (i) The department may only provide cash assistance under this part if the parent  
2633 recipient agrees in writing to make a good faith effort to comply with the parent recipient's  
2634 employment plan.

2635 (ii) The department shall establish a process to reconcile disputes between a parent  
2636 recipient and the department as to whether:

2637 (A) the parent recipient has made a good faith effort to comply with the employment  
2638 plan; or

2639 (B) the department has complied with the employment plan.

2640 (iii) If a parent recipient consistently fails to show good faith in complying with the  
2641 employment plan, the department may seek to terminate all or part of the cash assistance  
2642 services provided under this part.

2643 (3) The department may only provide cash assistance on behalf of a minor child under  
2644 this part if the minor child is:

2645 (a) enrolled in and attending school in compliance with Sections [~~53A-11-101.5~~]  
2646 [53G-6-202](#) and [~~53A-11-101.7~~] [53G-6-203](#); or

2647 (b) exempt from school attendance under Section [~~53A-11-102~~] [53G-6-204](#).

2648 (4) This section does not apply to a person who has received diversion assistance under  
2649 Section [35A-3-303](#).

2650 (5) (a) The department may recruit and train volunteers to serve as mentors for parent  
2651 recipients.

2652 (b) A mentor may advocate on behalf of a parent recipient and help a parent recipient:

2653 (i) develop life skills;

2654 (ii) implement an employment plan; or

2655 (iii) obtain services and support from:

2656 (A) the volunteer mentor;

2657 (B) the department; or

2658 (C) civic organizations.

2659 Section 33. Section **35A-9-401** is amended to read:

2660 **35A-9-401. Eligibility determination -- Awarding of scholarship.**

2661 (1) As used in this section:

2662 (a) "Eligible child" means an individual who:

- 2663 (i) is experiencing intergenerational poverty;
- 2664 (ii) will be four years of age on or before September 2 of the school year in which the  
2665 individual intends to enroll in a school readiness program; and
- 2666 (iii) has not enrolled in kindergarten, as reported by the individual's parent or legal  
2667 guardian.
- 2668 (b) "Intergenerational poverty" means the same as that term is defined in Section  
2669 [35A-9-102](#).
- 2670 (c) "Intergenerational poverty scholarship" or "IGP scholarship" means the same as that  
2671 term is defined in Section [~~53A-1b-202~~] [53F-5-301](#).
- 2672 (2) The department shall determine if an applicant for an IGP scholarship is eligible for  
2673 the Intergenerational Poverty School Readiness Scholarship Program, created in Section  
2674 [~~53A-1b-206~~] [53F-5-305](#).
- 2675 (3) An individual may apply to the department annually to qualify for a scholarship for  
2676 an eligible child to attend a high quality school readiness program.
- 2677 (4) (a) The department shall create an application form that requires an applicant to  
2678 provide the information necessary for the department to make the eligibility determination  
2679 described in Subsection (5).
- 2680 (b) The department may:
- 2681 (i) require an applicant to submit supporting documentation; and
- 2682 (ii) create a deadline for an applicant to apply for an IGP scholarship.
- 2683 (5) The department shall determine if:
- 2684 (a) the information contained in an application submitted under Subsection (3) is  
2685 accurate and complete; and
- 2686 (b) the child for whom the applicant is applying for an IGP scholarship is an eligible  
2687 child.
- 2688 (6) (a) Except as provided in Subsection (6)(b), and subject to legislative  
2689 appropriations, the department shall:
- 2690 (i) award an IGP scholarship for an individual who is determined to be an eligible child  
2691 under Subsection (5); and
- 2692 (ii) with input from the State Board of Education, determine the value of an IGP  
2693 scholarship.

2694 (b) If the department receives an appropriation for IGP scholarships that is not  
2695 sufficient to award a scholarship to each eligible child, the department shall prioritize awarding  
2696 IGP scholarships to eligible children who are at the highest risk as determined by the  
2697 department.

2698 (7) The department shall coordinate with the State Board of Education, as necessary, to  
2699 enroll a recipient of an IGP scholarship in a high quality school readiness program of the  
2700 recipient's parent's choice, space permitting, as described in Section [~~53A-1b-206~~] [53F-5-305](#).

2701 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2702 department shall make rules to administer this section.

2703 Section 34. Section ~~35A-13-403~~ is amended to read:

2704 **35A-13-403. Services provided by the division.**

2705 The division may:

2706 (1) provide:

2707 (a) a business enterprise program;

2708 (b) workshops, employment, and training; and

2709 (c) vocational rehabilitation, training and adjustment, sight conservation, prevention of  
2710 blindness, low vision lenses, and recreational services;

2711 (2) assist public education officials in the discharge of their duties towards children  
2712 who are blind or have visual impairments, and perform services related to vision screening  
2713 under Section [~~53A-11-203~~] [53G-9-404](#);

2714 (3) maintain a register of individuals who are blind or have visual impairments,  
2715 including such facts as the office considers necessary for proper planning, administration, and  
2716 operations, but protecting against unwarranted invasions of privacy;

2717 (4) establish and operate community service centers, rehabilitation facilities, and  
2718 workshops; and

2719 (5) perform other duties assigned by the director or the executive director.

2720 Section 35. Section ~~36-22-2~~ is amended to read:

2721 **36-22-2. Duties.**

2722 (1) The committee shall:

2723 (a) serve as a liaison between Utah Native American tribes and the Legislature;

2724 (b) recommend legislation for each annual general session of the Legislature if the

2725 committee determines that modifications to current law are in the best interest of the state of  
2726 Utah and of the Utah Native American tribes;

2727 (c) review the operations of the Division of Indian Affairs and other state agencies  
2728 working with Utah Native American tribes;

2729 (d) help sponsor meetings and other opportunities for discussion with and between  
2730 Native Americans; and

2731 (e) hold a meeting at which public education is discussed as required by Section  
2732 ~~[53A-31-405]~~ [53F-5-604](#).

2733 (2) In conducting its business, the committee shall comply with the rules of legislative  
2734 interim committees.

2735 Section 36. Section ~~41-1a-422~~ is amended to read:

2736 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**  
2737 **contribution collection procedures.**

2738 (1) As used in this section:

2739 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who  
2740 has donated or in whose name at least \$25 has been donated to:

2741 (A) a scholastic scholarship fund of a single named institution;

2742 (B) the Department of Veterans' and Military Affairs for veterans' programs;

2743 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in  
2744 Section ~~23-14-13~~, for conservation of wildlife and the enhancement, preservation, protection,  
2745 access, and management of wildlife habitat;

2746 (D) the Department of Agriculture and Food for the benefit of conservation districts;

2747 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;

2748 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with  
2749 the donation evenly divided between the two;

2750 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America  
2751 council as specified by the contributor;

2752 (H) No More Homeless Pets in Utah for distribution to organizations or individuals  
2753 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

2754 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth  
2755 development programs;

- 2756 (J) the Utah Association of Public School Foundations to support public education;
- 2757 (K) the Utah Housing Opportunity Restricted Account created in Section [61-2-204](#) to
- 2758 assist people who have severe housing needs;
- 2759 (L) the Public Safety Honoring Heroes Restricted Account created in Section [53-1-118](#)
- 2760 to support the families of fallen Utah Highway Patrol troopers and other Department of Public
- 2761 Safety employees;
- 2762 (M) the Division of Parks and Recreation for distribution to organizations that provide
- 2763 support for Zion National Park;
- 2764 (N) the Firefighter Support Restricted Account created in Section [53-7-109](#) to support
- 2765 firefighter organizations;
- 2766 (O) the Share the Road Bicycle Support Restricted Account created in Section
- 2767 [72-2-127](#) to support bicycle operation and safety awareness programs;
- 2768 (P) the Cancer Research Restricted Account created in Section [26-21a-302](#) to support
- 2769 cancer research programs;
- 2770 (Q) Autism Awareness Restricted Account created in Section [~~[53A-1-304](#)~~] [53F-9-401](#)
- 2771 to support autism awareness programs;
- 2772 (R) Humanitarian Service and Educational and Cultural Exchange Restricted Account
- 2773 created in Section [9-17-102](#) to support humanitarian service and educational and cultural
- 2774 programs;
- 2775 (S) Prostate Cancer Support Restricted Account created in Section [26-21a-303](#) for
- 2776 programs that conduct or support prostate cancer awareness, screening, detection, or prevention
- 2777 until September 30, 2017, and beginning on October 1, 2017, upon renewal of a prostate cancer
- 2778 support special group license plate, to the Cancer Research Restricted Account created in
- 2779 Section [26-21a-302](#) to support cancer research programs;
- 2780 (T) the Choose Life Adoption Support Restricted Account created in Section
- 2781 [62A-4a-608](#) to support programs that promote adoption;
- 2782 (U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in
- 2783 Section [9-18-102](#);
- 2784 (V) the National Professional Men's Basketball Team Support of Women and Children
- 2785 Issues Restricted Account created in Section [62A-1-202](#);
- 2786 (W) the Utah Law Enforcement Memorial Support Restricted Account created in

2787 Section 53-1-120;

2788 (X) the Children with Cancer Support Restricted Account created in Section  
2789 26-21a-304 for programs that provide assistance to children with cancer;

2790 (Y) the National Professional Men's Soccer Team Support of Building Communities  
2791 Restricted Account created in Section 9-19-102;

2792 (Z) the Children with Heart Disease Support Restricted Account created in Section  
2793 26-58-102;

2794 (AA) the Utah Intracurricular Student Organization Support for Agricultural Education  
2795 and Leadership Restricted Account created in Section 4-42-102; or

2796 (BB) the Division of Wildlife Resources for the Support for State-Owned Shooting  
2797 Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and  
2798 operation and maintenance of existing, state-owned firearm shooting ranges.

2799 (ii) (A) For a veterans' special group license plate, "contributor" means a person who  
2800 has donated or in whose name at least a \$25 donation at the time of application and \$10 annual  
2801 donation thereafter has been made.

2802 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a  
2803 person who:

2804 (I) has donated or in whose name at least \$30 has been donated at the time of  
2805 application and annually after the time of application; and

2806 (II) is a member of a trade organization for real estate licensees that has more than  
2807 15,000 Utah members.

2808 (C) For an Honoring Heroes special group license plate, "contributor" means a person  
2809 who has donated or in whose name at least \$35 has been donated at the time of application and  
2810 annually thereafter.

2811 (D) For a firefighter support special group license plate, "contributor" means a person  
2812 who:

2813 (I) has donated or in whose name at least \$15 has been donated at the time of  
2814 application and annually after the time of application; and

2815 (II) is a currently employed, volunteer, or retired firefighter.

2816 (E) For a cancer research special group license plate, "contributor" means a person who  
2817 has donated or in whose name at least \$35 has been donated at the time of application and

2818 annually after the time of application.

2819 (F) For a Martin Luther King, Jr. Civil Rights Support special group license plate,  
2820 "contributor" means a person who has donated or in whose name at least \$35 has been donated  
2821 at the time of application and annually thereafter.

2822 (G) For a Utah Law Enforcement Memorial Support special group license plate,  
2823 "contributor" means a person who has donated or in whose name at least \$35 has been donated  
2824 at the time of application and annually thereafter.

2825 (b) "Institution" means a state institution of higher education as defined under Section  
2826 [53B-3-102](#) or a private institution of higher education in the state accredited by a regional or  
2827 national accrediting agency recognized by the United States Department of Education.

2828 (2) (a) An applicant for original or renewal collegiate special group license plates under  
2829 Subsection (1)(a)(i) must be a contributor to the institution named in the application and  
2830 present the original contribution verification form under Subsection (2)(b) or make a  
2831 contribution to the division at the time of application under Subsection (3).

2832 (b) An institution with a support special group license plate shall issue to a contributor  
2833 a verification form designed by the commission containing:

- 2834 (i) the name of the contributor;
- 2835 (ii) the institution to which a donation was made;
- 2836 (iii) the date of the donation; and
- 2837 (iv) an attestation that the donation was for a scholastic scholarship.

2838 (c) The state auditor may audit each institution to verify that the money collected by the  
2839 institutions from contributors is used for scholastic scholarships.

2840 (d) After an applicant has been issued collegiate license plates or renewal decals, the  
2841 commission shall charge the institution whose plate was issued, a fee determined in accordance  
2842 with Section [63J-1-504](#) for management and administrative expenses incurred in issuing and  
2843 renewing the collegiate license plates.

2844 (e) If the contribution is made at the time of application, the contribution shall be  
2845 collected, treated, and deposited as provided under Subsection (3).

2846 (3) (a) An applicant for original or renewal support special group license plates under  
2847 this section must be a contributor to the sponsoring organization associated with the license  
2848 plate.

- 2849 (b) This contribution shall be:
- 2850 (i) unless collected by the named institution under Subsection (2), collected by the
- 2851 division;
- 2852 (ii) considered a voluntary contribution for the funding of the activities specified under
- 2853 this section and not a motor vehicle registration fee;
- 2854 (iii) deposited into the appropriate account less actual administrative costs associated
- 2855 with issuing the license plates; and
- 2856 (iv) for a firefighter special group license plate, deposited into the appropriate account
- 2857 less:
- 2858 (A) the costs of reordering firefighter special group license plate decals; and
- 2859 (B) the costs of replacing recognition special group license plates with new license
- 2860 plates under Subsection [41-1a-1211](#)(13).
- 2861 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to
- 2862 registration or renewal of registration.
- 2863 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to
- 2864 the division when issuing original:
- 2865 (i) snowmobile license plates; or
- 2866 (ii) conservation license plates.
- 2867 (4) Veterans' license plates shall display one of the symbols representing the Army,
- 2868 Navy, Air Force, Marines, Coast Guard, or American Legion.
- 2869 Section 37. Section **41-6a-303** is amended to read:
- 2870 **41-6a-303. Definition of reduced speed school zone -- Operation of warning lights**
- 2871 **-- School crossing guard requirements -- Responsibility provisions -- Rulemaking**
- 2872 **authority.**
- 2873 (1) As used in this section "reduced speed school zone" means a designated length of a
- 2874 highway extending from a school zone speed limit sign with warning lights operating to an end
- 2875 school zone sign.
- 2876 (2) The Department of Transportation for state highways and local highway authorities
- 2877 for highways under their jurisdiction:
- 2878 (a) shall establish reduced speed school zones at elementary schools after written
- 2879 assurance by a local highway authority that the local highway authority complies with

2880 Subsections (3) and (4); and

2881 (b) may establish reduced speed school zones for secondary schools at the request of  
2882 the local highway authority.

2883 (3) For all reduced speed school zones on highways, including state highways within  
2884 the jurisdictional boundaries of a local highway authority, the local highway authority shall:

2885 (a) (i) provide shuttle service across highways for school children; or

2886 (ii) provide, train, and supervise school crossing guards in accordance with this  
2887 section;

2888 (b) provide for the:

2889 (i) operation of reduced speed school zones, including providing power to warning  
2890 lights and turning on and off the warning lights as required under Subsections (4) and (5); and

2891 (ii) maintenance of reduced speed school zones except on state highways as provided  
2892 in Section [41-6a-302](#); and

2893 (c) notify the Department of Transportation of reduced speed school zones on state  
2894 highways that are in need of maintenance.

2895 (4) While children are going to or leaving school during opening and closing hours all  
2896 reduced speed school zones shall have:

2897 (a) the warning lights operating on each school zone speed limit sign; and

2898 (b) a school crossing guard present if the reduced speed school zone is for an  
2899 elementary school.

2900 (5) The warning lights on a school zone speed limit sign may not be operating except  
2901 as provided under Subsection (4).

2902 (6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2903 the Department of Transportation shall make rules establishing criteria and specifications for  
2904 the:

2905 (i) establishment, location, and operation of school crosswalks, school zones, and  
2906 reduced speed school zones;

2907 (ii) training, use, and supervision of school crossing guards at elementary schools and  
2908 secondary schools; and

2909 (iii) content and implementation of child access routing plans under Section

2910 [\[53A-3-402\]](#) [53G-4-402](#).

2911 (b) If a school crosswalk is established at a signalized intersection in accordance with  
2912 the requirements of this section, a local highway authority may reduce the speed limit at the  
2913 signalized intersection to 20 miles per hour for a highway under its jurisdiction.

2914 (7) Each local highway authority shall pay for providing, training, and supervising  
2915 school crossing guards in accordance with this section.

2916 Section 38. Section **41-6a-1307** is amended to read:

2917 **41-6a-1307. School bus parking zones -- Establishment -- Uniform markings --**  
2918 **Penalty.**

2919 (1) As used in this section, "school bus parking zone" means a parking space that is  
2920 clearly identified as reserved for use by a school bus.

2921 (2) A highway authority for highways under its jurisdiction and school boards for  
2922 roadways located on school property may establish and locate school bus parking zones in  
2923 accordance with specifications established under Subsection (3).

2924 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2925 Department of Transportation, after consultation with local highway authorities and school  
2926 boards which may include input from school traffic safety committees established under  
2927 Section [~~53A-3-402~~] 53G-4-402, shall make rules establishing specifications for uniform  
2928 signage or markings to clearly identify school bus parking zones.

2929 (4) A person may not stop, stand, or park a vehicle other than a school bus, whether  
2930 occupied or not, in a clearly identified school bus parking zone.

2931 (5) (a) A violation of Subsection (4) is an infraction.

2932 (b) A person who violates Subsection (4) shall pay a minimum fine of \$75.

2933 Section 39. Section **41-6a-1309** is amended to read:

2934 **41-6a-1309. Advertising on a school bus.**

2935 (1) A local school board or charter school governing board may sell advertising space  
2936 on the exterior of a school bus in accordance with this section.

2937 (2) (a) A local school board or charter school governing board that sells advertising  
2938 space on the exterior of a school bus shall adopt guidelines for the type of advertising that will  
2939 be permitted.

2940 (b) Advertising on a school bus:

2941 (i) shall be age appropriate;

2942 (ii) shall be consistent with the instructional requirements of Section [~~53A-13-101~~]  
2943 [53G-10-402](#);

2944 (iii) may not contain:

2945 (A) promotion of any substance or activity that is illegal for minors, such as alcohol,  
2946 tobacco, drugs, or gambling;

2947 (B) promotion of any political party, candidate, or issue; or

2948 (C) sexual material; and

2949 (iv) may not resemble a traffic-control device as defined in Section [41-6a-102](#).

2950 (3) (a) The Department of Transportation shall make and enforce rules pursuant to  
2951 Section [41-6a-1304](#) governing the placement and size of an advertisement on a school bus.

2952 (b) Rules made under Subsection (3)(a) shall:

2953 (i) prohibit the placement of an advertisement on the back or the front of a school bus;

2954 and

2955 (ii) limit the size of an advertisement to no more than 35% of the area of the side of a  
2956 school bus.

2957 (4) (a) A school bus advertisement shall be painted or affixed by decal on a school bus  
2958 in a manner that complies with rules adopted under Subsection (3).

2959 (b) A commercial advertiser that contracts with a school district for the use of space for  
2960 an advertisement shall pay:

2961 (i) the cost of placing the advertisement on a school bus; and

2962 (ii) for the removal of the advertisement after the term of the contract has expired.

2963 (5) A school district or charter school shall use revenue from the sale of advertising  
2964 space on a school bus for expenditures made within accounting function classification 2700,  
2965 School Transportation Services, of the Financial Accounting for Local and State School  
2966 Systems guidelines developed by the National Center for Education Statistics.

2967 Section 40. Section **49-12-102** is amended to read:

2968 **49-12-102. Definitions.**

2969 As used in this chapter:

2970 (1) "Benefits normally provided":

2971 (a) means a benefit offered by an employer, including:

2972 (i) a leave benefit of any kind;

2973 (ii) insurance coverage of any kind if the employer pays some or all of the premium for  
2974 the coverage;

2975 (iii) employer contributions to a health savings account, health reimbursement account,  
2976 health reimbursement arrangement, or medical expense reimbursement plan; and

2977 (iv) a retirement benefit of any kind if the employer pays some or all of the cost of the  
2978 benefit; and

2979 (b) does not include:

2980 (i) a payment for social security;

2981 (ii) workers' compensation insurance;

2982 (iii) unemployment insurance;

2983 (iv) a payment for Medicare;

2984 (v) a payment or insurance required by federal or state law that is similar to a payment  
2985 or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);

2986 (vi) any other benefit that state or federal law requires an employer to provide an  
2987 employee who would not otherwise be eligible to receive the benefit; or

2988 (vii) any benefit that an employer provides an employee in order to avoid a penalty or  
2989 tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health  
2990 Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal  
2991 regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.

2992 (2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total  
2993 amount of payments made by a participating employer to a member of this system for services  
2994 rendered to the participating employer, including:

2995 (i) bonuses;

2996 (ii) cost-of-living adjustments;

2997 (iii) other payments currently includable in gross income and that are subject to social  
2998 security deductions, including any payments in excess of the maximum amount subject to  
2999 deduction under social security law;

3000 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral  
3001 or other benefits authorized by federal law; and

3002 (v) member contributions.

3003 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed

3004 under Internal Revenue Code, Section 401(a)(17).

3005 (c) "Compensation" does not include:

3006 (i) the monetary value of remuneration paid in kind, including a residence or use of  
3007 equipment;

3008 (ii) the cost of any employment benefits paid for by the participating employer;

3009 (iii) compensation paid to a temporary employee, an exempt employee, or an employee  
3010 otherwise ineligible for service credit;

3011 (iv) any payments upon termination, including accumulated vacation, sick leave  
3012 payments, severance payments, compensatory time payments, or any other special payments;

3013 (v) any allowances or payments to a member for costs or expenses paid by the  
3014 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,  
3015 housing costs, insurance costs, equipment costs, and dependent care costs; or

3016 (vi) a teacher salary bonus described in Section [~~53A-17a-173~~] [53F-2-513](#).

3017 (d) The executive director may determine if a payment not listed under this Subsection  
3018 (2) falls within the definition of compensation.

3019 (3) "Final average salary" means the amount calculated by averaging the highest five  
3020 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), (d),  
3021 and (e).

3022 (a) Except as provided in Subsection (3)(b), the percentage increase in annual  
3023 compensation in any one of the years used may not exceed the previous year's compensation by  
3024 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
3025 of the dollar during the previous year, as measured by a United States Bureau of Labor  
3026 Statistics Consumer Price Index average as determined by the board.

3027 (b) In cases where the participating employer provides acceptable documentation to the  
3028 office, the limitation in Subsection (3)(a) may be exceeded if:

3029 (i) the member has transferred from another agency; or

3030 (ii) the member has been promoted to a new position.

3031 (c) If the member retires more than six months from the date of termination of  
3032 employment, the member is considered to have been in service at the member's last rate of pay  
3033 from the date of the termination of employment to the effective date of retirement for purposes  
3034 of computing the member's final average salary only.

3035 (d) If the member has less than five years of service credit in this system, final average  
3036 salary means the average annual compensation paid to the member during the full period of  
3037 service credit.

3038 (e) The annual compensation used to calculate final average salary shall be based on:

3039 (i) a calendar year for a member employed by a participating employer that is not an  
3040 educational institution; or

3041 (ii) a contract year for a member employed by an educational institution.

3042 (4) "Participating employer" means an employer which meets the participation  
3043 requirements of Sections [49-12-201](#) and [49-12-202](#).

3044 (5) (a) "Regular full-time employee" means an employee whose term of employment  
3045 for a participating employer contemplates continued employment during a fiscal or calendar  
3046 year and whose employment normally requires an average of 20 hours or more per week,  
3047 except as modified by the board, and who receives benefits normally provided by the  
3048 participating employer.

3049 (b) "Regular full-time employee" includes:

3050 (i) a teacher whose term of employment for a participating employer contemplates  
3051 continued employment during a school year and who teaches half-time or more;

3052 (ii) a classified school employee:

3053 (A) who is hired before July 1, 2013; and

3054 (B) whose employment normally requires an average of 20 hours per week or more for  
3055 a participating employer, regardless of benefits provided;

3056 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as  
3057 of January 1, 1990, as provided in Section [49-12-407](#);

3058 (iv) a faculty member or employee of an institution of higher education who is  
3059 considered full-time by that institution of higher education; and

3060 (v) an individual who otherwise meets the definition of this Subsection (5) who  
3061 performs services for a participating employer through a professional employer organization or  
3062 similar arrangement.

3063 (c) "Regular full-time employee" does not include a classified school employee:

3064 (i) (A) who is hired on or after July 1, 2013; and

3065 (B) who does not receive benefits normally provided by the participating employer

3066 even if the employment normally requires an average of 20 hours per week or more for a  
3067 participating employer;

3068 (ii) (A) who is hired before July 1, 2013;

3069 (B) who did not qualify as a regular full-time employee before July 1, 2013;

3070 (C) who does not receive benefits normally provided by the participating employer;

3071 and

3072 (D) whose employment hours are increased on or after July 1, 2013, to require an  
3073 average of 20 hours per week or more for a participating employer; or

3074 (iii) who is a person working on a contract:

3075 (A) for the purposes of vocational rehabilitation and the employment and training of  
3076 people with significant disabilities; and

3077 (B) that has been set aside from procurement requirements by the state pursuant to  
3078 Section [63G-6a-805](#) or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

3079 (6) "System" means the Public Employees' Contributory Retirement System created  
3080 under this chapter.

3081 (7) "Years of service credit" means:

3082 (a) a period consisting of 12 full months as determined by the board;

3083 (b) a period determined by the board, whether consecutive or not, during which a  
3084 regular full-time employee performed services for a participating employer, including any time  
3085 the regular full-time employee was absent on a paid leave of absence granted by a participating  
3086 employer or was absent in the service of the United States government on military duty as  
3087 provided by this chapter; or

3088 (c) the regular school year consisting of not less than eight months of full-time service  
3089 for a regular full-time employee of an educational institution.

3090 Section 41. Section **49-12-202** is amended to read:

3091 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
3092 **requirements -- Exceptions -- Nondiscrimination requirements.**

3093 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer  
3094 and may not withdraw from participation in this system.

3095 (b) In addition to their participation in this system, participating employers may  
3096 provide or participate in public or private retirement, supplemental or defined contribution

3097 plan, either directly or indirectly, for their employees.

3098 (2) The following employers may be excluded from participation in this system:

3099 (a) an employer not initially admitted or included as a participating employer in this  
3100 system prior to January 1, 1982 if:

3101 (i) the employer elects not to provide or participate in any type of private or public  
3102 retirement, supplemental or defined contribution plan, either directly or indirectly, for its  
3103 employees, except for Social Security; or

3104 (ii) the employer offers another collectively bargained retirement benefit and has  
3105 continued to do so on an uninterrupted basis since that date;

3106 (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5,~~  
3107 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and  
3108 does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407;

3109 (c) an employer that is a hospital created as a special service district under Title 17D,  
3110 Chapter 1, Special Service District Act, that makes an election of nonparticipation in  
3111 accordance with Subsection (4); or

3112 (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21,  
3113 Health Care Facility Licensing and Inspection Act, and created as a special service district  
3114 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes  
3115 an election of nonparticipation in accordance with Subsection (4).

3116 (3) An employer who did not become a participating employer in this system prior to  
3117 July 1, 1986, may not participate in this system.

3118 (4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service  
3119 district under Title 17D, Chapter 1, Special Service District Act, may make an election of  
3120 nonparticipation as an employer for retirement programs under this chapter.

3121 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under  
3122 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a  
3123 special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area  
3124 of the state may make an election of nonparticipation as an employer for retirement programs  
3125 under this chapter.

3126 (b) An election provided under Subsection (4)(a):

3127 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

3128 (ii) shall be documented by a resolution adopted by the governing body of the special  
3129 service district;

3130 (iii) is irrevocable; and

3131 (iv) applies to the special service district as the employer and to all employees of the  
3132 special service district.

3133 (c) The governing body of the special service district may offer employee benefit plans  
3134 for its employees:

3135 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

3136 or

3137 (ii) under any other program.

3138 (5) (a) If a participating employer purchases service credit on behalf of regular  
3139 full-time employees for service rendered prior to the participating employer's admission to this  
3140 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all  
3141 current and former regular full-time employees who were eligible for service credit at the time  
3142 service was rendered.

3143 (b) For a purchase made under this Subsection (5), an employee is not required to:

3144 (i) have at least four years of service credit before the purchase can be made; or

3145 (ii) forfeit service credit or any defined contribution balance based on the employer  
3146 contributions under any other retirement system or plan based on the period of employment for  
3147 which service credit is being purchased.

3148 Section 42. Section **49-12-701** is amended to read:

3149 **49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**  
3150 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
3151 **reemployment.**

3152 (1) Any member of this system may retire and receive the allowance allowed under  
3153 Subsection (2) if the member meets the following requirements as of the member's retirement  
3154 date:

3155 (a) the member is eligible for retirement under Section [49-12-401](#), or has 25 years of  
3156 service credit;

3157 (b) the member elects to forfeit any stipend for retirement offered by the participating  
3158 employer; and

3159 (c) the member elects to retire from this system by applying for retirement by the date  
3160 established under Subsection (3)(a) or (3)(b).

3161 (2) (a) A member who retires under Subsection (1) shall receive 2% of that member's  
3162 final average salary for all years of service credit.

3163 (b) An actuarial reduction may not be applied to the allowance granted under this  
3164 section.

3165 (3) In order to receive the allowance allowed by this section, a member shall submit an  
3166 application to the office as follows:

3167 (a) (i) For state and school employees under Level A, the application shall be filed by  
3168 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th  
3169 day of July, August, or September, 1987.

3170 (ii) If a Level A member elects to retire, the executive director or participating  
3171 employer may request the member to delay the retirement date until a later date, but no later  
3172 than June 30, 1988.

3173 (iii) If the member agrees to delay the retirement date, the retirement date shall be  
3174 delayed, but service credit may not be accrued after the member's original retirement date  
3175 elected by the member, and compensation earned after the member's original retirement date  
3176 may not be used in the calculation of the final average salary for determining the retirement  
3177 allowance.

3178 (b) (i) For political subdivision employees under Level B, the application shall be filed  
3179 by September 30, 1987.

3180 (ii) The retirement date shall then be set by the member on the 1st or 16th day of July,  
3181 August, September, October, November, or December, 1987.

3182 (4) (a) The cost of providing the allowance under this section shall be funded in fiscal  
3183 year 1987-88 by a supplemental appropriation in the 1988 General Session based on the  
3184 retirement contribution rate increase established by the consulting actuary and approved by the  
3185 board.

3186 (b) The cost of providing the allowance under this section shall be funded beginning  
3187 July 1, 1988, by means of an increase in the retirement contribution rate established by the  
3188 consulting actuary and approved by the board.

3189 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

3190 (i) for state employees, by an appropriation from the account established by the  
3191 Division of Finance under Subsection (4)(d), which is funded by savings derived from this  
3192 early retirement incentive and a work force reduction;

3193 (ii) for school employees, by direct contributions from the employing unit, which may  
3194 not be funded through an increase in the retirement contribution amount established in [~~Title~~  
3195 ~~53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding --  
3196 Minimum School Program; and

3197 (iii) for political subdivisions under Level B, by direct contributions by the  
3198 participating employer.

3199 (d) (i) Each year, any excess savings derived from this early retirement incentive which  
3200 are above the costs of funding the increase and the costs of paying insurance, sick leave,  
3201 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (ii) shall be reported to  
3202 the Legislature and shall be appropriated as provided by law.

3203 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an  
3204 account into which all savings derived from this early retirement incentive shall be deposited as  
3205 the savings are realized.

3206 (iii) In the case of Subsection (4)(c)(ii), the State Board of Education shall certify the  
3207 amount of savings derived from this early retirement incentive.

3208 (iv) The State Board of Education and the participating employer may not spend the  
3209 savings until appropriated by the Legislature as provided by law.

3210 (5) A member who retires under this section is subject to Section [49-11-504](#) and  
3211 Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

3212 (6) The board may adopt rules to administer this section.

3213 (7) The Legislative Auditor General shall perform an audit to ensure compliance with  
3214 this section.

3215 Section 43. Section **49-13-102** is amended to read:

3216 **49-13-102. Definitions.**

3217 As used in this chapter:

3218 (1) "Benefits normally provided" has the same meaning as defined in Section  
3219 [49-12-102](#).

3220 (2) (a) Except as provided in Subsection (2)(c), "compensation" means the total

3221 amount of payments made by a participating employer to a member of this system for services  
3222 rendered to the participating employer, including:

3223 (i) bonuses;

3224 (ii) cost-of-living adjustments;

3225 (iii) other payments currently includable in gross income and that are subject to social  
3226 security deductions, including any payments in excess of the maximum amount subject to  
3227 deduction under social security law; and

3228 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral  
3229 or other benefits authorized by federal law.

3230 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed  
3231 under Internal Revenue Code, Section 401(a)(17).

3232 (c) "Compensation" does not include:

3233 (i) the monetary value of remuneration paid in kind, including a residence or use of  
3234 equipment;

3235 (ii) the cost of any employment benefits paid for by the participating employer;

3236 (iii) compensation paid to a temporary employee, an exempt employee, or an employee  
3237 otherwise ineligible for service credit;

3238 (iv) any payments upon termination, including accumulated vacation, sick leave  
3239 payments, severance payments, compensatory time payments, or any other special payments;

3240 (v) any allowances or payments to a member for costs or expenses paid by the  
3241 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,  
3242 housing costs, insurance costs, equipment costs, and dependent care costs; or

3243 (vi) a teacher salary bonus described in Section [~~53A-17a-173~~] [53F-2-513](#).

3244 (d) The executive director may determine if a payment not listed under this Subsection  
3245 (2) falls within the definition of compensation.

3246 (3) "Final average salary" means the amount calculated by averaging the highest three  
3247 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and  
3248 (d).

3249 (a) Except as provided in Subsection (3)(b), the percentage increase in annual  
3250 compensation in any one of the years used may not exceed the previous year's compensation by  
3251 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power

3252 of the dollar during the previous year, as measured by a United States Bureau of Labor  
3253 Statistics Consumer Price Index average as determined by the board.

3254 (b) In cases where the participating employer provides acceptable documentation to the  
3255 office, the limitation in Subsection (3)(a) may be exceeded if:

- 3256 (i) the member has transferred from another agency; or
- 3257 (ii) the member has been promoted to a new position.

3258 (c) If the member retires more than six months from the date of termination of  
3259 employment and for purposes of computing the member's final average salary only, the  
3260 member is considered to have been in service at the member's last rate of pay from the date of  
3261 the termination of employment to the effective date of retirement.

3262 (d) The annual compensation used to calculate final average salary shall be based on:

- 3263 (i) a calendar year for a member employed by a participating employer that is not an  
3264 educational institution; or
- 3265 (ii) a contract year for a member employed by an educational institution.

3266 (4) "Participating employer" means an employer which meets the participation  
3267 requirements of Sections [49-13-201](#) and [49-13-202](#).

3268 (5) (a) "Regular full-time employee" means an employee whose term of employment  
3269 for a participating employer contemplates continued employment during a fiscal or calendar  
3270 year and whose employment normally requires an average of 20 hours or more per week,  
3271 except as modified by the board, and who receives benefits normally provided by the  
3272 participating employer.

3273 (b) "Regular full-time employee" includes:

3274 (i) a teacher whose term of employment for a participating employer contemplates  
3275 continued employment during a school year and who teaches half time or more;

3276 (ii) a classified school employee:

3277 (A) who is hired before July 1, 2013; and

3278 (B) whose employment normally requires an average of 20 hours per week or more for  
3279 a participating employer, regardless of benefits provided;

3280 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as  
3281 of January 1, 1990, as provided in Section [49-13-407](#);

3282 (iv) a faculty member or employee of an institution of higher education who is

3283 considered full time by that institution of higher education; and

3284 (v) an individual who otherwise meets the definition of this Subsection (5) who  
3285 performs services for a participating employer through a professional employer organization or  
3286 similar arrangement.

3287 (c) "Regular full-time employee" does not include a classified school employee:

3288 (i) (A) who is hired on or after July 1, 2013; and

3289 (B) who does not receive benefits normally provided by the participating employer

3290 even if the employment normally requires an average of 20 hours per week or more for a

3291 participating employer;

3292 (ii) (A) who is hired before July 1, 2013;

3293 (B) who did not qualify as a regular full-time employee before July 1, 2013;

3294 (C) who does not receive benefits normally provided by the participating employer;

3295 and

3296 (D) whose employment hours are increased on or after July 1, 2013, to require an

3297 average of 20 hours per week or more for a participating employer; or

3298 (iii) who is a person working on a contract:

3299 (A) for the purposes of vocational rehabilitation and the employment and training of  
3300 people with significant disabilities; and

3301 (B) that has been set aside from procurement requirements by the state pursuant to

3302 Section [63G-6a-805](#) or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

3303 (6) "System" means the Public Employees' Noncontributory Retirement System.

3304 (7) "Years of service credit" means:

3305 (a) a period consisting of 12 full months as determined by the board;

3306 (b) a period determined by the board, whether consecutive or not, during which a  
3307 regular full-time employee performed services for a participating employer, including any time  
3308 the regular full-time employee was absent on a paid leave of absence granted by a participating  
3309 employer or was absent in the service of the United States government on military duty as  
3310 provided by this chapter; or

3311 (c) the regular school year consisting of not less than eight months of full-time service  
3312 for a regular full-time employee of an educational institution.

3313 Section 44. Section **49-13-202** is amended to read:

3314           **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
3315 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

3316           (1) (a) Unless excluded under Subsection (2), an employer is a participating employer  
3317 and may not withdraw from participation in this system.

3318           (b) In addition to their participation in this system, participating employers may  
3319 provide or participate in any additional public or private retirement, supplemental or defined  
3320 contribution plan, either directly or indirectly, for their employees.

3321           (2) The following employers may be excluded from participation in this system:

3322           (a) an employer not initially admitted or included as a participating employer in this  
3323 system before January 1, 1982, if:

3324           (i) the employer elects not to provide or participate in any type of private or public  
3325 retirement, supplemental or defined contribution plan, either directly or indirectly, for its  
3326 employees, except for Social Security; or

3327           (ii) the employer offers another collectively bargained retirement benefit and has  
3328 continued to do so on an uninterrupted basis since that date;

3329           (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5,~~  
3330 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and  
3331 does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407;

3332           (c) an employer that is a hospital created as a special service district under Title 17D,  
3333 Chapter 1, Special Service District Act, that makes an election of nonparticipation in  
3334 accordance with Subsection (5);

3335           (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21,  
3336 Health Care Facility Licensing and Inspection Act, and created as a special service district  
3337 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes  
3338 an election of nonparticipation in accordance with Subsection (5); or

3339           (e) an employer that is a risk management association initially created by interlocal  
3340 agreement before 1986 for the purpose of implementing a self-insurance joint protection  
3341 program for the benefit of member municipalities of the association.

3342           (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to  
3343 provide or participate in any type of public or private retirement, supplemental or defined  
3344 contribution plan, either directly or indirectly, except for Social Security, the employer shall be

3345 a participating employer in this system regardless of whether the employer has applied for  
3346 admission under Subsection (4).

3347 (4) (a) An employer may, by resolution of its governing body, apply for admission to  
3348 this system.

3349 (b) Upon approval of the resolution by the board, the employer is a participating  
3350 employer in this system and is subject to this title.

3351 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service  
3352 district under Title 17D, Chapter 1, Special Service District Act, may make an election of  
3353 nonparticipation as an employer for retirement programs under this chapter.

3354 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under  
3355 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a  
3356 special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area  
3357 of the state may make an election of nonparticipation as an employer for retirement programs  
3358 under this chapter.

3359 (iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make  
3360 an election of nonparticipation as an employer for retirement programs under this chapter.

3361 (b) An election provided under Subsection (5)(a):

3362 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

3363 (ii) shall be documented by a resolution adopted by the governing body of the  
3364 employer;

3365 (iii) is irrevocable; and

3366 (iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all  
3367 employees of that employer.

3368 (c) The employer making an election under Subsection (5)(a) may offer employee  
3369 benefit plans for its employees:

3370 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

3371 or

3372 (ii) under any other program.

3373 (6) (a) If a participating employer purchases service credit on behalf of regular  
3374 full-time employees for service rendered prior to the participating employer's admission to this  
3375 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all

3376 current and former regular full-time employees who were eligible for service credit at the time  
3377 service was rendered.

3378 (b) For a purchase made under this Subsection (6), an employee is not required to:

3379 (i) have at least four years of service credit before the purchase can be made; or

3380 (ii) forfeit service credit or any defined contribution balance based on the employer

3381 contributions under any other retirement system or plan based on the period of employment for  
3382 which service credit is being purchased.

3383 Section 45. Section **49-13-701** is amended to read:

3384 **49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**

3385 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
3386 **reemployment.**

3387 (1) Any member of this system may retire and receive the allowance allowed under  
3388 Subsection (2) if the member meets the following requirements as of the member's retirement:

3389 (a) the member is eligible for retirement under Section [49-13-401](#), or has 25 years of  
3390 service credit;

3391 (b) the member elects to forfeit any stipend for retirement offered by the participating  
3392 employer; and

3393 (c) the member elects to retire from this system by applying for retirement by the date  
3394 established under Subsection (3)(a) or (3)(b).

3395 (2) (a) A member who retires under Subsection (1) shall receive 2% of that member's  
3396 final average salary for all years of service credit.

3397 (b) No actuarial reduction may be applied to the allowance granted under this section.

3398 (3) In order to receive the allowance allowed by this section, a member shall submit an  
3399 application to the office as follows:

3400 (a) (i) For state and school employees under Level A, the application shall be filed by  
3401 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th  
3402 day of July, August, or September, 1987.

3403 (ii) If a Level A member elects to retire, the executive director or participating  
3404 employer may request the member to delay the retirement date until a later date, but no later  
3405 than June 30, 1988.

3406 (iii) If the member agrees to delay the retirement date, the retirement date shall be

3407 delayed, but service credit may not be accrued after the member's original retirement date  
3408 elected by the member, and compensation earned after the member's original retirement date  
3409 may not be used in the calculation of the final average salary for determining the retirement  
3410 allowance.

3411 (b) (i) For political subdivision employees under Level B, the application shall be filed  
3412 by September 30, 1987.

3413 (ii) The member's retirement date shall then be set by the member on the 1st or 16th  
3414 day of July, August, September, October, November, or December, 1987.

3415 (4) (a) The cost of providing the allowance under this section shall be funded in fiscal  
3416 year 1987-88 by a supplemental appropriation in the 1988 General Session based on the  
3417 retirement contribution rate increase established by the consulting actuary and approved by the  
3418 board.

3419 (b) The cost of providing the allowance under this section shall be funded beginning  
3420 July 1, 1988, by means of an increase in the retirement contribution rate established by the  
3421 consulting actuary and approved by the board.

3422 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

3423 (i) for state employees, by an appropriation from the account established by the  
3424 Division of Finance under Subsection (4)(d), which is funded by savings derived from this  
3425 early retirement incentive and a work force reduction;

3426 (ii) for school employees, by direct contributions from the employing unit, which may  
3427 not be funded through an increase in the retirement contribution amount established in [~~Title~~  
3428 ~~53A, Chapter 17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding --  
3429 Minimum School Program; and

3430 (iii) for political subdivisions under Level B, by direct contributions by the  
3431 participating employer.

3432 (d) (i) Each year, any excess savings derived from this early retirement incentive which  
3433 are above the costs of funding the increase and the costs of paying insurance, sick leave,  
3434 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (ii) shall be reported to  
3435 the Legislature and shall be appropriated as provided by law.

3436 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an  
3437 account into which all savings derived from this early retirement incentive shall be deposited as

3438 the savings are realized.

3439 (iii) In the case of Subsection (4)(c)(ii), the State Board of Education shall certify the  
3440 amount of savings derived from this early retirement incentive.

3441 (iv) The State Board of Education and the participating employer may not spend the  
3442 savings until appropriated by the Legislature as provided by law.

3443 (5) A member who retires under this section is subject to Section 49-11-504 and  
3444 Chapter 11, Part 12, Postretirement Reemployment Restrictions Act.

3445 (6) The board may make rules to administer this section.

3446 (7) The Legislative Auditor General shall perform an audit to ensure compliance with  
3447 this section.

3448 Section 46. Section 49-22-102 is amended to read:

3449 **49-22-102. Definitions.**

3450 As used in this chapter:

3451 (1) "Benefits normally provided" has the same meaning as defined in Section  
3452 49-12-102.

3453 (2) (a) "Compensation" means, except as provided in Subsection (2)(c), the total  
3454 amount of payments made by a participating employer to a member of this system for services  
3455 rendered to the participating employer, including:

3456 (i) bonuses;

3457 (ii) cost-of-living adjustments;

3458 (iii) other payments currently includable in gross income and that are subject to social  
3459 security deductions, including any payments in excess of the maximum amount subject to  
3460 deduction under social security law;

3461 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral  
3462 or other benefits authorized by federal law; and

3463 (v) member contributions.

3464 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed  
3465 under Internal Revenue Code, Section 401(a)(17).

3466 (c) "Compensation" does not include:

3467 (i) the monetary value of remuneration paid in kind, including a residence or use of  
3468 equipment;

3469 (ii) the cost of any employment benefits paid for by the participating employer;

3470 (iii) compensation paid to a temporary employee or an employee otherwise ineligible  
3471 for service credit;

3472 (iv) any payments upon termination, including accumulated vacation, sick leave  
3473 payments, severance payments, compensatory time payments, or any other special payments;

3474 (v) any allowances or payments to a member for costs or expenses paid by the  
3475 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,  
3476 housing costs, insurance costs, equipment costs, and dependent care costs; or

3477 (vi) a teacher salary bonus described in Section [~~53A-17a-173~~] [53F-2-513](#).

3478 (d) The executive director may determine if a payment not listed under this Subsection  
3479 (2) falls within the definition of compensation.

3480 (3) "Corresponding Tier I system" means the system or plan that would have covered  
3481 the member if the member had initially entered employment before July 1, 2011.

3482 (4) "Final average salary" means the amount calculated by averaging the highest five  
3483 years of annual compensation preceding retirement subject to Subsections (4)(a), (b), (c), (d),  
3484 and (e).

3485 (a) Except as provided in Subsection (4)(b), the percentage increase in annual  
3486 compensation in any one of the years used may not exceed the previous year's compensation by  
3487 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
3488 of the dollar during the previous year, as measured by a United States Bureau of Labor  
3489 Statistics Consumer Price Index average as determined by the board.

3490 (b) In cases where the participating employer provides acceptable documentation to the  
3491 office, the limitation in Subsection (4)(a) may be exceeded if:

3492 (i) the member has transferred from another agency; or

3493 (ii) the member has been promoted to a new position.

3494 (c) If the member retires more than six months from the date of termination of  
3495 employment, the member is considered to have been in service at the member's last rate of pay  
3496 from the date of the termination of employment to the effective date of retirement for purposes  
3497 of computing the member's final average salary only.

3498 (d) If the member has less than five years of service credit in this system, final average  
3499 salary means the average annual compensation paid to the member during the full period of

3500 service credit.

3501 (e) The annual compensation used to calculate final average salary shall be based on:

3502 (i) a calendar year for a member employed by a participating employer that is not an  
3503 educational institution; or

3504 (ii) a contract year for a member employed by an educational institution.

3505 (5) "Participating employer" means an employer which meets the participation  
3506 requirements of:

3507 (a) Sections [49-12-201](#) and [49-12-202](#);

3508 (b) Sections [49-13-201](#) and [49-13-202](#);

3509 (c) Section [49-19-201](#); or

3510 (d) Section [49-22-201](#) or [49-22-202](#).

3511 (6) (a) "Regular full-time employee" means an employee whose term of employment  
3512 for a participating employer contemplates continued employment during a fiscal or calendar  
3513 year and whose employment normally requires an average of 20 hours or more per week,  
3514 except as modified by the board, and who receives benefits normally provided by the  
3515 participating employer.

3516 (b) "Regular full-time employee" includes:

3517 (i) a teacher whose term of employment for a participating employer contemplates  
3518 continued employment during a school year and who teaches half time or more;

3519 (ii) a classified school employee:

3520 (A) who is hired before July 1, 2013; and

3521 (B) whose employment normally requires an average of 20 hours per week or more for  
3522 a participating employer, regardless of benefits provided;

3523 (iii) an appointive officer whose appointed position is full time as certified by the  
3524 participating employer;

3525 (iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the  
3526 attorney general, and a state legislator;

3527 (v) an elected official not included under Subsection (6)(b)(iv) whose elected position  
3528 is full time as certified by the participating employer;

3529 (vi) a faculty member or employee of an institution of higher education who is  
3530 considered full time by that institution of higher education; and

3531 (vii) an individual who otherwise meets the definition of this Subsection (6) who  
3532 performs services for a participating employer through a professional employer organization or  
3533 similar arrangement.

3534 (c) "Regular full-time employee" does not include:

3535 (i) a firefighter service employee as defined in Section [49-23-102](#);

3536 (ii) a public safety service employee as defined in Section [49-23-102](#);

3537 (iii) a classified school employee:

3538 (A) who is hired on or after July 1, 2013; and

3539 (B) who does not receive benefits normally provided by the participating employer  
3540 even if the employment normally requires an average of 20 hours per week or more for a  
3541 participating employer;

3542 (iv) a classified school employee:

3543 (A) who is hired before July 1, 2013;

3544 (B) who did not qualify as a regular full-time employee before July 1, 2013;

3545 (C) who does not receive benefits normally provided by the participating employer;

3546 and

3547 (D) whose employment hours are increased on or after July 1, 2013, to require an  
3548 average of 20 hours per week or more for a participating employer; or

3549 (E) who is a person working on a contract:

3550 (I) for the purposes of vocational rehabilitation and the employment and training of  
3551 people with significant disabilities; and

3552 (II) that has been set aside from procurement requirements by the state pursuant to  
3553 Section [63G-6a-805](#) or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

3554 (7) "System" means the New Public Employees' Tier II Contributory Retirement  
3555 System created under this chapter.

3556 (8) "Years of service credit" means:

3557 (a) a period consisting of 12 full months as determined by the board;

3558 (b) a period determined by the board, whether consecutive or not, during which a  
3559 regular full-time employee performed services for a participating employer, including any time  
3560 the regular full-time employee was absent on a paid leave of absence granted by a participating  
3561 employer or was absent in the service of the United States government on military duty as

3562 provided by this chapter; or

3563 (c) the regular school year consisting of not less than eight months of full-time service  
3564 for a regular full-time employee of an educational institution.

3565 Section 47. Section **49-22-202** is amended to read:

3566 **49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
3567 **requirements.**

3568 (1) Unless excluded under Subsection (2), an employer is a participating employer and  
3569 may not withdraw from participation in this system.

3570 (2) The following employers may be excluded from participation in this system:

3571 (a) an employer not initially admitted or included as a participating employer in this  
3572 system before January 1, 1982, if:

3573 (i) the employer elects not to provide or participate in any type of private or public  
3574 retirement, supplemental or defined contribution plan, either directly or indirectly, for its  
3575 employees, except for Social Security; or

3576 (ii) the employer offers another collectively bargained retirement benefit and has  
3577 continued to do so on an uninterrupted basis since that date;

3578 (b) an employer that is a charter school authorized under [~~Title 53A, Chapter 1a, Part 5,~~  
3579 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Part 3, Charter School Authorization, and  
3580 does not elect to participate in accordance with Section [~~53A-1a-512~~] 53G-5-407; or

3581 (c) an employer that is a risk management association initially created by interlocal  
3582 agreement before 1986 for the purpose of implementing a self-insurance joint protection  
3583 program for the benefit of member municipalities of the association.

3584 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to  
3585 provide or participate in any type of public or private retirement, supplemental or defined  
3586 contribution plan, either directly or indirectly, except for Social Security, the employer shall be  
3587 a participating employer in this system regardless of whether the employer has applied for  
3588 admission under Subsection (4).

3589 (4) (a) An employer may, by resolution of its governing body, apply for admission to  
3590 this system.

3591 (b) Upon approval of the resolution by the board, the employer is a participating  
3592 employer in this system and is subject to this title.

3593 (5) If a participating employer purchases service credit on behalf of a regular full-time  
3594 employee for service rendered prior to the participating employer's admission to this system,  
3595 the participating employer:

3596 (a) shall purchase credit in a nondiscriminatory manner on behalf of all current and  
3597 former regular full-time employees who were eligible for service credit at the time service was  
3598 rendered; and

3599 (b) shall comply with the provisions of Section [49-11-403](#).

3600 Section 48. Section **51-2a-201.5** is amended to read:

3601 **51-2a-201.5. Accounting reports required -- Reporting to state auditor.**

3602 (1) As used in this section:

3603 (a) (i) "Federal pass through money" means federal money received by a nonprofit  
3604 corporation through a subaward or contract from the state or a political subdivision.

3605 (ii) "Federal pass through money" does not include federal money received by a  
3606 nonprofit corporation as payment for goods or services purchased by the state or political  
3607 subdivision from the nonprofit corporation.

3608 (b) (i) "Local money" means money that is owned, held, or administered by a political  
3609 subdivision of the state that is derived from fee or tax revenues.

3610 (ii) "Local money" does not include:

3611 (A) money received by a nonprofit corporation as payment for goods or services  
3612 purchased from the nonprofit corporation; or

3613 (B) contributions or donations received by the political subdivision.

3614 (c) (i) "State money" means money that is owned, held, or administered by a state  
3615 agency and derived from state fee or tax revenues.

3616 (ii) "State money" does not include:

3617 (A) money received by a nonprofit corporation as payment for goods or services  
3618 purchased from the nonprofit corporation; or

3619 (B) contributions or donations received by the state agency.

3620 (2) (a) The governing board of a nonprofit corporation whose revenues or expenditures  
3621 of federal pass through money, state money, and local money is \$1,000,000 or more shall cause  
3622 an audit to be made of its accounts by an independent certified public accountant.

3623 (b) The governing board of a nonprofit corporation whose revenues or expenditures of

3624 federal pass through money, state money, and local money is at least \$350,000 but less than  
3625 \$1,000,000 shall cause a review to be made of its accounts by an independent certified public  
3626 accountant.

3627 (c) The governing board of a nonprofit corporation whose revenues or expenditures of  
3628 federal pass through money, state money, and local money is at least \$100,000 but less than  
3629 \$350,000 shall cause a compilation to be made of its accounts by an independent certified  
3630 public accountant.

3631 (d) The governing board of a nonprofit corporation whose revenues or expenditures of  
3632 federal pass through money, state money, and local money is less than \$100,000 but greater  
3633 than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

3634 (3) A nonprofit corporation described in Subsection 51-2a-102(6)(f) shall provide the  
3635 state auditor a copy of an accounting report prepared under this section within six months of  
3636 the end of the nonprofit corporation's fiscal year.

3637 (4) (a) A state agency that disburses federal pass through money or state money to a  
3638 nonprofit corporation shall enter into a written agreement with the nonprofit corporation that  
3639 requires the nonprofit corporation to annually disclose whether:

3640 (i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection  
3641 (2) in the previous fiscal year of the nonprofit corporation; or

3642 (ii) the nonprofit corporation anticipates meeting or exceeding the dollar amounts listed  
3643 in Subsection (2) in the fiscal year the money is disbursed.

3644 (b) If the nonprofit corporation discloses to the state agency that the nonprofit  
3645 corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state  
3646 agency shall notify the state auditor.

3647 (5) This section does not apply to a nonprofit corporation that is a charter school  
3648 created under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G,  
3649 Chapter 5, Charter Schools. A charter school is subject to the requirements of Section  
3650 [~~53A-1a-507~~] 53G-5-404.

3651 (6) A nonprofit corporation is exempt from Section 51-2a-201.

3652 Section 49. Section 51-7-13 is amended to read:

3653 **51-7-13. Funds of member institutions of state system of higher education and**  
3654 **public education foundations -- Authorized deposits or investments.**

- 3655 (1) The provisions of this section apply to all funds of:
- 3656 (a) higher education institutions, other than endowment funds, that are not transferred
- 3657 to the state treasurer under Section [51-7-4](#); and
- 3658 (b) public education foundations established under Section [~~53A-4-205~~] [53E-3-403](#).
- 3659 (2) (a) Proceeds of general obligation bond issues and all funds pledged or otherwise
- 3660 dedicated to the payment of interest and principal of general obligation bonds issued by or for
- 3661 the benefit of the institution shall be invested according to the requirements of:
- 3662 (i) Section [51-7-11](#) and the rules of the council; or
- 3663 (ii) the terms of the borrowing instruments applicable to those bonds and funds if those
- 3664 terms are more restrictive than Section [51-7-11](#).
- 3665 (b) (i) The public treasurer shall invest the proceeds of bonds other than general
- 3666 obligation bonds issued by or for the benefit of the institution and all funds pledged or
- 3667 otherwise dedicated to the payment of interest and principal of bonds other than general
- 3668 obligation bonds according to the terms of the borrowing instruments applicable to those
- 3669 bonds.
- 3670 (ii) If no provisions governing investment of bond proceeds or pledged or dedicated
- 3671 funds are contained in the borrowing instruments applicable to those bonds or funds, the public
- 3672 treasurer shall comply with the requirements of Section [51-7-11](#) in investing those proceeds
- 3673 and funds.
- 3674 (c) All other funds in the custody or control of any of those institutions or public
- 3675 education foundations shall be invested as provided in Section [51-7-11](#) and the rules of the
- 3676 council.
- 3677 (3) (a) Each institution shall make monthly reports detailing the deposit and investment
- 3678 of funds in its custody or control to its institutional council and the State Board of Regents.
- 3679 (b) The state auditor may conduct or cause to be conducted an annual audit of the
- 3680 investment program of each institution.
- 3681 (c) The State Board of Regents shall:
- 3682 (i) require whatever internal controls and supervision are necessary to ensure the
- 3683 appropriate safekeeping, investment, and accounting for all funds of these institutions; and
- 3684 (ii) submit annually to the governor and the Legislature a summary report of all
- 3685 investments by institutions under its jurisdiction.

3686 Section 50. Section **52-4-103** is amended to read:

3687 **52-4-103. Definitions.**

3688 As used in this chapter:

3689 (1) "Anchor location" means the physical location from which:

3690 (a) an electronic meeting originates; or

3691 (b) the participants are connected.

3692 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by

3693 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake

3694 City.

3695 (3) "Convening" means the calling together of a public body by a person authorized to

3696 do so for the express purpose of discussing or acting upon a subject over which that public

3697 body has jurisdiction or advisory power.

3698 (4) "Electronic meeting" means a public meeting convened or conducted by means of a

3699 conference using electronic communications.

3700 (5) "Electronic message" means a communication transmitted electronically, including:

3701 (a) electronic mail;

3702 (b) instant messaging;

3703 (c) electronic chat;

3704 (d) text messaging as defined in Section [76-4-401](#); or

3705 (e) any other method that conveys a message or facilitates communication

3706 electronically.

3707 (6) (a) "Meeting" means the convening of a public body or a specified body, with a

3708 quorum present, including a workshop or an executive session, whether in person or by means

3709 of electronic communications, for the purpose of discussing, receiving comments from the

3710 public about, or acting upon a matter over which the public body or specific body has

3711 jurisdiction or advisory power.

3712 (b) "Meeting" does not mean:

3713 (i) a chance gathering or social gathering; or

3714 (ii) a convening of the State Tax Commission to consider a confidential tax matter in

3715 accordance with Section [59-1-405](#).

3716 (c) "Meeting" does not mean the convening of a public body that has both legislative

3717 and executive responsibilities if:

3718 (i) no public funds are appropriated for expenditure during the time the public body is  
3719 convened; and

3720 (ii) the public body is convened solely for the discussion or implementation of  
3721 administrative or operational matters:

3722 (A) for which no formal action by the public body is required; or

3723 (B) that would not come before the public body for discussion or action.

3724 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the  
3725 public statements of each member of the public body who is participating in a meeting.

3726 (8) "Participate" means the ability to communicate with all of the members of a public  
3727 body, either verbally or electronically, so that each member of the public body can hear or  
3728 observe the communication.

3729 (9) (a) "Public body" means:

3730 (i) any administrative, advisory, executive, or legislative body of the state or its  
3731 political subdivisions that:

3732 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

3733 (B) consists of two or more persons;

3734 (C) expends, disburses, or is supported in whole or in part by tax revenue; and

3735 (D) is vested with the authority to make decisions regarding the public's business; or

3736 (ii) any administrative, advisory, executive, or policymaking body of an association, as  
3737 defined in Section [~~53A-1-1601~~] [53G-7-1101](#), that:

3738 (A) consists of two or more persons;

3739 (B) expends, disburses, or is supported in whole or in part by dues paid by a public

3740 school or whose employees participate in a benefit or program described in Title 49, Utah State  
3741 Retirement and Insurance Benefit Act; and

3742 (C) is vested with authority to make decisions regarding the participation of a public  
3743 school or student in an interscholastic activity as defined in Section [~~53A-1-1601~~] [53G-7-1101](#).

3744 (b) "Public body" includes:

3745 (i) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative  
3746 undertaking; and

3747 (ii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation.

- 3748 (c) "Public body" does not include:
- 3749 (i) a political party, a political group, or a political caucus;
- 3750 (ii) a conference committee, a rules committee, or a sifting committee of the
- 3751 Legislature;
- 3752 (iii) a school community council or charter trust land council as defined in Section
- 3753 ~~[53A-1a-108.1]~~ [53G-7-1203](#); or
- 3754 (iv) the Economic Development Legislative Liaison Committee created in Section
- 3755 [36-30-201](#).
- 3756 (10) "Public statement" means a statement made in the ordinary course of business of
- 3757 the public body with the intent that all other members of the public body receive it.
- 3758 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless
- 3759 otherwise defined by applicable law.
- 3760 (b) "Quorum" does not include a meeting of two elected officials by themselves when
- 3761 no action, either formal or informal, is taken on a subject over which these elected officials
- 3762 have advisory power.
- 3763 (12) "Recording" means an audio, or an audio and video, record of the proceedings of a
- 3764 meeting that can be used to review the proceedings of the meeting.
- 3765 (13) "Specified body":
- 3766 (a) means an administrative, advisory, executive, or legislative body that:
- 3767 (i) is not a public body;
- 3768 (ii) consists of three or more members; and
- 3769 (iii) includes at least one member who is:
- 3770 (A) a legislator; and
- 3771 (B) officially appointed to the body by the president of the Senate, speaker of the
- 3772 House of Representatives, or governor; and
- 3773 (b) does not include a body listed in Subsection (9)(c)(ii).
- 3774 (14) "Transmit" means to send, convey, or communicate an electronic message by
- 3775 electronic means.
- 3776 Section 51. Section **52-4-209** is amended to read:
- 3777 **52-4-209. Electronic meetings for charter school board.**
- 3778 (1) Notwithstanding the definitions provided in Section [52-4-103](#) for this chapter, as

3779 used in this section:

3780 (a) "Anchor location" means a physical location where:

3781 (i) the charter school board would normally meet if the charter school board were not  
3782 holding an electronic meeting; and

3783 (ii) space, a facility, and technology are provided to the public to monitor and, if public  
3784 comment is allowed, to participate in an electronic meeting during regular business hours.

3785 (b) "Charter school board" means the governing board of a school created under [~~Title~~  
3786 ~~53A, Chapter 1a, Part 5, The Utah Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools.

3787 (c) "Meeting" means the convening of a charter school board:

3788 (i) with a quorum who:

3789 (A) monitors a website at least once during the electronic meeting; and

3790 (B) casts a vote on a website, if a vote is taken; and

3791 (ii) for the purpose of discussing, receiving comments from the public about, or acting  
3792 upon a matter over which the charter school board has jurisdiction or advisory power.

3793 (d) "Monitor" means to:

3794 (i) read all the content added to a website by the public or a charter school board  
3795 member; and

3796 (ii) view a vote cast by a charter school board member on a website.

3797 (e) "Participate" means to add content to a website.

3798 (2) (a) A charter school board may convene and conduct an electronic meeting in  
3799 accordance with Section [52-4-207](#).

3800 (b) A charter school board may convene and conduct an electronic meeting in  
3801 accordance with this section that is in writing on a website if:

3802 (i) the chair verifies that a quorum monitors the website;

3803 (ii) the content of the website is available to the public;

3804 (iii) the chair controls the times in which a charter school board member or the public  
3805 participates; and

3806 (iv) the chair requires a person to identify himself or herself if the person:

3807 (A) participates; or

3808 (B) casts a vote as a charter school board member.

3809 (3) A charter school that conducts an electronic meeting under this section shall:

- 3810 (a) give public notice of the electronic meeting:
- 3811 (i) in accordance with Section 52-4-202; and
- 3812 (ii) by posting written notice at the anchor location as required under Section 52-4-207;
- 3813 (b) in addition to giving public notice required by Subsection (3)(a), provide:
- 3814 (i) notice of the electronic meeting to the members of the charter school board at least
- 3815 24 hours before the meeting so that they may participate in and be counted as present for all
- 3816 purposes, including the determination that a quorum is present;
- 3817 (ii) a description of how the members and the public may be connected to the
- 3818 electronic meeting;
- 3819 (iii) a start and end time for the meeting, which shall be no longer than 5 days; and
- 3820 (iv) a start and end time for when a vote will be taken in an electronic meeting, which
- 3821 shall be no longer than four hours; and
- 3822 (c) provide an anchor location.
- 3823 (4) The chair shall:
- 3824 (a) not allow anyone to participate from the time the notice described in Subsection
- 3825 (3)(b)(iv) is given until the end time for when a vote will be taken; and
- 3826 (b) allow a charter school board member to change a vote until the end time for when a
- 3827 vote will be taken.
- 3828 (5) During the time in which a vote may be taken, a charter school board member may
- 3829 not communicate in any way with any person regarding an issue over which the charter school
- 3830 board has jurisdiction.
- 3831 (6) A charter school conducting an electronic meeting under this section may not close
- 3832 a meeting as otherwise allowed under this part.
- 3833 (7) (a) Written minutes shall be kept of an electronic meeting conducted as required in
- 3834 Section 52-4-203.
- 3835 (b) (i) Notwithstanding Section 52-4-203, a recording is not required of an electronic
- 3836 meeting described in Subsection (2)(b).
- 3837 (ii) All of the content of the website shall be kept for an electronic meeting conducted
- 3838 under this section.
- 3839 (c) Written minutes are the official record of action taken at an electronic meeting as
- 3840 required in Section 52-4-203.

3841 (8) (a) A charter school board shall ensure that the website used to conduct an  
3842 electronic meeting:

3843 (i) is secure; and

3844 (ii) provides with reasonably certainty the identity of a charter school board member  
3845 who logs on, adds content, or casts a vote on the website.

3846 (b) A person is guilty of a class B misdemeanor if the person falsely identifies himself  
3847 or herself as required by Subsection (2)(b)(iv).

3848 (9) Compliance with the provisions of this section by a charter school constitutes full  
3849 and complete compliance by the public body with the corresponding provisions of Sections  
3850 [52-4-201](#) and [52-4-202](#).

3851 Section 52. Section **53-3-104** is amended to read:

3852 **53-3-104. Division duties.**

3853 The division shall:

3854 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
3855 make rules:

3856 (a) for examining applicants for a license, as necessary for the safety and welfare of the  
3857 traveling public;

3858 (b) for acceptable documentation of an applicant's identity, Social Security number,  
3859 Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the  
3860 United States, honorable or general discharge from the United States military, and other proof  
3861 or documentation required under this chapter;

3862 (c) regarding the restrictions to be imposed on a person driving a motor vehicle with a  
3863 temporary learner permit or learner permit;

3864 (d) for exemptions from licensing requirements as authorized in this chapter; and

3865 (e) establishing procedures for the storage and maintenance of applicant information  
3866 provided in accordance with Section [53-3-205](#), [53-3-410](#), or [53-3-804](#);

3867 (2) examine each applicant according to the class of license applied for;

3868 (3) license motor vehicle drivers;

3869 (4) file every application for a license received by it and shall maintain indices  
3870 containing:

3871 (a) all applications denied and the reason each was denied;

- 3872 (b) all applications granted; and
- 3873 (c) the name of every licensee whose license has been suspended, disqualified, or
- 3874 revoked by the division and the reasons for the action;
- 3875 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with
- 3876 this chapter;
- 3877 (6) file all accident reports and abstracts of court records of convictions received by it
- 3878 under state law;
- 3879 (7) maintain a record of each licensee showing the licensee's convictions and the traffic
- 3880 accidents in which the licensee has been involved where a conviction has resulted;
- 3881 (8) consider the record of a licensee upon an application for renewal of a license and at
- 3882 other appropriate times;
- 3883 (9) search the license files, compile, and furnish a report on the driving record of any
- 3884 person licensed in the state in accordance with Section [53-3-109](#);
- 3885 (10) develop and implement a record system as required by Section [41-6a-604](#);
- 3886 (11) in accordance with Section [~~53A-13-208~~] [53G-10-507](#), establish:
- 3887 (a) procedures and standards to certify teachers of driver education classes to
- 3888 administer knowledge and skills tests;
- 3889 (b) minimal standards for the tests; and
- 3890 (c) procedures to enable school districts to administer or process any tests for students
- 3891 to receive a class D operator's license;
- 3892 (12) in accordance with Section [53-3-510](#), establish:
- 3893 (a) procedures and standards to certify licensed instructors of commercial driver
- 3894 training school courses to administer the skills test;
- 3895 (b) minimal standards for the test; and
- 3896 (c) procedures to enable licensed commercial driver training schools to administer or
- 3897 process skills tests for students to receive a class D operator's license;
- 3898 (13) provide administrative support to the Driver License Medical Advisory Board
- 3899 created in Section [53-3-303](#);
- 3900 (14) upon request by the lieutenant governor, provide the lieutenant governor with a
- 3901 digital copy of the driver license or identification card signature of a person who is an applicant
- 3902 for voter registration under Section [20A-2-206](#); and

3903 (15) in accordance with Section [53-3-407.1](#), establish:

3904 (a) procedures and standards to license a commercial driver license third party tester or  
3905 commercial driver license third party examiner to administer the commercial driver license  
3906 skills tests;

3907 (b) minimum standards for the commercial driver license skills test; and

3908 (c) procedures to enable a licensed commercial driver license third party tester or  
3909 commercial driver license third party examiner to administer a commercial driver license skills  
3910 test for an applicant to receive a commercial driver license.

3911 Section 53. Section **53-3-505.5** is amended to read:

3912 **53-3-505.5. Behind-the-wheel training requirements.**

3913 (1) Except as provided under Subsection (2), a driver education course under this part  
3914 or [~~Title 53A, Chapter 13, Part 2, Driver Education Classes~~] Title 53G, Chapter 10, Part 5,  
3915 Driver Education Classes, that is used to satisfy the driver training requirement under Section  
3916 [53-3-204](#) shall require each student to complete at least six hours of behind-the-wheel driving a  
3917 dual-control motor vehicle with a certified instructor seated in the front seat next to the student  
3918 driver.

3919 (2) Up to three hours of the behind-the-wheel driving may be substituted as follows:

3920 (a) two hours of range driving on an approved driving range under Section  
3921 [~~53A-13-201~~] [53G-10-502](#) equals one hour of the behind-the-wheel driving required under  
3922 Subsection (1);

3923 (b) two hours of driving simulation practice on a driving simulation device that is fully  
3924 interactive as set forth in rules made under Section [53-3-505](#), equals one hour of the  
3925 behind-the-wheel driving required under Subsection (1); and

3926 (c) four hours of driving simulation practice on a driving simulation device that is not  
3927 fully interactive as set forth in rules made under Section [53-3-505](#), equals one hour of the  
3928 behind-the-wheel driving required under Subsection (1), with a maximum of one hour of the  
3929 behind-the-wheel driving required under Subsection (1) that may be substituted under this  
3930 Subsection (2)(c).

3931 (3) The behind-the-wheel driving required under Subsection (1) shall include, if  
3932 feasible, driving on interstate and other multilane highways.

3933 Section 54. Section **53-7-103** is amended to read:

3934           **53-7-103. State Fire Marshal Division -- Creation -- State fire marshal --**  
3935 **Appointment, qualifications, duties, and compensation.**

3936           (1) There is created within the department the State Fire Marshal Division.

3937           (2) (a) The director of the division is the state fire marshal, who shall be appointed by  
3938 the commissioner upon the recommendation of the Utah Fire Prevention Board created in  
3939 Section [53-7-203](#) and with the approval of the governor.

3940           (b) The state fire marshal is the executive and administrative head of the division, and  
3941 shall be qualified by experience and education to:

3942           (i) enforce the state fire code;

3943           (ii) enforce rules made under this chapter; and

3944           (iii) perform the duties prescribed by the commissioner.

3945           (3) The state fire marshal acts under the supervision and control of the commissioner  
3946 and may be removed from the position at the will of the commissioner.

3947           (4) The state fire marshal shall:

3948           (a) enforce the state fire code and rules made under this chapter in accordance with  
3949 Section [53-7-104](#);

3950           (b) complete the duties assigned by the commissioner;

3951           (c) examine plans and specifications for school buildings, as required by Section  
3952 [~~53A-20-104~~] [53E-3-706](#);

3953           (d) approve criteria established by the state superintendent for building inspectors;

3954           (e) promote and support injury prevention public education programs; and

3955           (f) perform all other duties provided in this chapter.

3956           (5) The state fire marshal shall receive compensation as provided by Title 67, Chapter  
3957 19, Utah State Personnel Management Act.

3958           Section 55. Section **53-10-202** is amended to read:

3959           **53-10-202. Criminal identification -- Duties of bureau.**

3960           The bureau shall:

3961           (1) procure and file information relating to identification and activities of persons who:

3962           (a) are fugitives from justice;

3963           (b) are wanted or missing;

3964           (c) have been arrested for or convicted of a crime under the laws of any state or nation;

3965 and

3966 (d) are believed to be involved in racketeering, organized crime, or a dangerous  
3967 offense;

3968 (2) establish a statewide uniform crime reporting system that shall include:

3969 (a) statistics concerning general categories of criminal activities;

3970 (b) statistics concerning crimes that exhibit evidence of prejudice based on race,  
3971 religion, ancestry, national origin, ethnicity, or other categories that the division finds  
3972 appropriate; and

3973 (c) other statistics as required by the Federal Bureau of Investigation;

3974 (3) make a complete and systematic record and index of the information obtained  
3975 under this part;

3976 (4) subject to the restrictions in this part, establish policy concerning the use and  
3977 dissemination of data obtained under this part;

3978 (5) publish an annual report concerning the extent, fluctuation, distribution, and nature  
3979 of crime in Utah;

3980 (6) establish a statewide central register for the identification and location of missing  
3981 persons, which may include:

3982 (a) identifying data including fingerprints of each missing person;

3983 (b) identifying data of any missing person who is reported as missing to a law  
3984 enforcement agency having jurisdiction;

3985 (c) dates and circumstances of any persons requesting or receiving information from  
3986 the register; and

3987 (d) any other information, including blood types and photographs found necessary in  
3988 furthering the purposes of this part;

3989 (7) publish a quarterly directory of missing persons for distribution to persons or  
3990 entities likely to be instrumental in the identification and location of missing persons;

3991 (8) list the name of every missing person with the appropriate nationally maintained  
3992 missing persons lists;

3993 (9) establish and operate a 24-hour communication network for reports of missing  
3994 persons and reports of sightings of missing persons;

3995 (10) coordinate with the National Center for Missing and Exploited Children and other

3996 agencies to facilitate the identification and location of missing persons and the identification of  
3997 unidentified persons and bodies;

3998 (11) receive information regarding missing persons, as provided in Sections [26-2-27](#)  
3999 and [~~53A-11-502~~] [53G-6-602](#), and stolen vehicles, vessels, and outboard motors, as provided  
4000 in Section [41-1a-1401](#);

4001 (12) adopt systems of identification, including the fingerprint system, to be used by the  
4002 division to facilitate law enforcement;

4003 (13) assign a distinguishing number or mark of identification to any pistol or revolver,  
4004 as provided in Section [76-10-520](#);

4005 (14) check certain criminal records databases for information regarding motor vehicle  
4006 salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons,  
4007 and inform the Motor Vehicle Enforcement Division when new entries are made for certain  
4008 criminal offenses for motor vehicle salespersons in accordance with the requirements of  
4009 Section [41-3-205.5](#);

4010 (15) check certain criminal records databases for information regarding driving  
4011 privilege card applicants or cardholders and maintain a separate file of fingerprints for driving  
4012 privilege applicants and cardholders and inform the federal Immigration and Customs  
4013 Enforcement Agency of the United States Department of Homeland Security when new entries  
4014 are made in accordance with the requirements of Section [53-3-205.5](#).

4015 (16) review and approve or disapprove applications for license renewal that meet the  
4016 requirements for renewal;

4017 (17) forward to the board those applications for renewal under Subsection (16) that do  
4018 not meet the requirements for renewal; and

4019 (18) within funds appropriated by the Legislature for the purpose, implement and  
4020 manage the operation of firearm safety and suicide prevention education programs, in  
4021 conjunction with the state suicide prevention coordinator, as described in this section and  
4022 Section [62A-15-1101](#), including:

4023 (a) coordinating with the Department of Health, local mental health and substance  
4024 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a  
4025 Utah-based nonprofit organization with expertise in the field of firearm use and safety that  
4026 represents firearm owners, to:

- 4027 (i) produce a firearm safety brochure with information about the safe handling and use  
4028 of firearms that includes:
- 4029 (A) rules for safe handling, storage, and use of firearms in a home environment;
  - 4030 (B) information about at-risk individuals and individuals who are legally prohibited  
4031 from possessing firearms;
  - 4032 (C) information about suicide prevention and awareness; and
  - 4033 (D) information about the availability of firearm safety packets;
- 4034 (ii) procure cable-style gun locks for distribution pursuant to this section;
- 4035 (iii) produce a firearm safety packet that includes both the firearm safety brochure  
4036 described in Subsection (18)(a)(i) and the cable-style gun lock described in Subsection  
4037 (18)(a)(ii); and
- 4038 (iv) create a suicide prevention education course that:
- 4039 (A) provides information that includes posters for display and pamphlets or brochures  
4040 for distribution regarding firearm safety education;
  - 4041 (B) incorporates current information on how to recognize suicidal behaviors and  
4042 identify persons who may be suicidal;
  - 4043 (C) provides information regarding crisis intervention resources; and
  - 4044 (D) provides continuing education in the area of suicide prevention;
- 4045 (b) distributing, free of charge, the firearm safety packet to the following persons, who  
4046 shall make the firearm safety packet available free of charge:
- 4047 (i) health care providers, including emergency rooms;
  - 4048 (ii) mental health practitioners;
  - 4049 (iii) other public health suicide prevention organizations;
  - 4050 (iv) entities that teach firearm safety courses; and
  - 4051 (v) school districts for use in the seminar, described in Section [\[53A-15-1302\]](#)  
4052 [53G-9-703](#), for parents of students in the school district;
- 4053 (c) creating and administering a redeemable coupon program described in this section  
4054 and Section [76-10-526](#), that may include:
- 4055 (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase  
4056 of a gun safe from a participating federally licensed firearms dealer, as defined in Section  
4057 [76-10-501](#), by a Utah resident who has filed an application for a concealed firearm permit;

- 4058 (ii) advertising the redeemable coupon program to all federally licensed firearms
- 4059 dealers and maintaining a list of dealers who wish to participate in the program;
- 4060 (iii) printing or writing the name of a Utah resident who has filed an application for a
- 4061 concealed firearm permit on the redeemable coupon;
- 4062 (iv) mailing the redeemable coupon and the firearm safety brochure to Utah residents
- 4063 who have filed an application for a concealed firearm permit; and
- 4064 (v) collecting from the participating dealers receipts described in Section 76-10-526
- 4065 and reimbursing the dealers;

4066 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

4067 making rules that establish procedures for:

- 4068 (i) producing and distributing the firearm safety brochures and packets;
- 4069 (ii) procuring the cable-style gun locks for distribution; and
- 4070 (iii) administering the redeemable coupon program; and
- 4071 (e) reporting to the Law Enforcement and Criminal Justice Interim Committee
- 4072 regarding implementation and success of the firearm safety program:
- 4073 (i) during the 2016 interim, before November 1; and
- 4074 (ii) during the 2018 interim, before June 1.

4075 Section 56. Section 53-10-203 is amended to read:

4076 **53-10-203. Missing persons -- Reports -- Notification.**

4077 (1) Each law enforcement agency that is investigating the report of a missing person

4078 shall provide information regarding that report to the division. The report shall include

4079 descriptive information and the date and location of the last-known contact with the missing

4080 person.

4081 (2) The division shall notify the state registrar of Vital Statistics and the FBI National

4082 Crime Information Center of all missing persons reported in accordance with Subsection (1)

4083 and shall provide the state registrar with information concerning the identity of those missing

4084 persons.

4085 (3) If the division has reason to believe that a missing person reported in accordance

4086 with Subsection (1) has been enrolled in a specific school in this state, the division shall also

4087 notify the last-known school of that report.

4088 (4) Upon learning of the recovery of a missing person, the division shall notify the state

4089 registrar and any school that it has previously informed of the person's disappearance.

4090 (5) The division shall, by rule, determine the manner and form of reports, notices, and  
4091 information required by this section.

4092 (6) Upon notification by the state registrar or school personnel that a request for a birth  
4093 certificate, school record, or other information concerning a missing person has been made, or  
4094 that an investigation is needed in accordance with Section [~~53A-11-503~~] [53G-6-603](#), the  
4095 division shall immediately notify the local law enforcement authority.

4096 Section 57. Section **53B-1-109** is amended to read:

4097 **53B-1-109. Coordination of higher education and public education information**  
4098 **technology systems -- Use of unique student identifier.**

4099 (1) As used in this section, "unique student identifier" means the same as that term is  
4100 defined in Section [~~53A-1-603.5~~] [53E-4-308](#).

4101 (2) The State Board of Regents and State Board of Education shall coordinate public  
4102 education and higher education information technology systems to allow individual student  
4103 academic achievement to be tracked through both education systems in accordance with this  
4104 section and Section [~~53A-1-603.5~~] [53E-4-308](#).

4105 (3) Information technology systems utilized at an institution within the state system of  
4106 higher education shall utilize the unique student identifier of all students who have previously  
4107 been assigned a unique student identifier.

4108 Section 58. Section **53B-1-114** is amended to read:

4109 **53B-1-114. Coordination for education.**

4110 (1) At least quarterly, in order to coordinate education services, individuals who have  
4111 responsibilities related to Utah's education system shall meet, including:

4112 (a) the state superintendent of public instruction described in Section [~~53A-1-301~~]

4113 [53E-3-301](#);

4114 (b) the commissioner;

4115 (c) the commissioner of technical education described in Section [53B-2a-102](#);

4116 (d) the executive director of the Department of Workforce Services described in  
4117 Section [35A-1-201](#);

4118 (e) the executive director of the Governor's Office of Economic Development

4119 described in Section [63N-1-202](#);

- 4120 (f) the chair of the State Board of Education;
- 4121 (g) the chair of the State Board of Regents;
- 4122 (h) the chair of the Utah System of Technical Colleges Board of Trustees described in
- 4123 Section [53B-2a-103](#); and
- 4124 (i) the chairs of the Education Interim Committee.
- 4125 (2) A meeting described in this section is not subject to Title 52, Chapter 4, Open and
- 4126 Public Meetings Act.
- 4127 Section 59. Section **53B-2a-106** is amended to read:
- 4128 **53B-2a-106. Technical colleges -- Duties.**
- 4129 (1) Each technical college shall, within the geographic area served by the technical
- 4130 college:
- 4131 (a) offer a noncredit postsecondary and secondary career and technical education
- 4132 curriculum;
- 4133 (b) offer that curriculum at:
- 4134 (i) low cost to adult students, as approved by the board of trustees; and
- 4135 (ii) no tuition to secondary students;
- 4136 (c) provide career and technical education that will result in:
- 4137 (i) appropriate licensing, certification, or other evidence of completion of training; and
- 4138 (ii) qualification for specific employment, with an emphasis on high demand, high
- 4139 wage, and high skill jobs in business and industry;
- 4140 (d) develop cooperative agreements with school districts, charter schools, other higher
- 4141 education institutions, businesses, industries, and community and private agencies to maximize
- 4142 the availability of instructional facilities within the geographic area served by the technical
- 4143 college; and
- 4144 (e) after consulting with school districts and charter schools within the geographic area
- 4145 served by the technical college:
- 4146 (i) ensure that secondary students in the public education system have access to career
- 4147 and technical education at the technical college; and
- 4148 (ii) prepare and submit an annual report to the board of trustees detailing:
- 4149 (A) how the career and technical education needs of secondary students within the
- 4150 region are being met;

4151 (B) what access secondary students within the region have to programs offered at the  
4152 technical college;

4153 (C) how the emphasis on high demand, high wage, high skill jobs in business and  
4154 industry described in Subsection (1)(c)(ii) is being provided; and

4155 (D) student tuition and fees.

4156 (2) A technical college may offer:

4157 (a) a competency-based high school diploma approved by the State Board of Education  
4158 in accordance with Section [~~53A-1-402~~] [53E-3-501](#);

4159 (b) noncredit, basic instruction in areas such as reading, language arts, and  
4160 mathematics that are necessary for student success in a chosen career and technical education  
4161 or job-related program;

4162 (c) noncredit courses of interest when similar offerings to the community are limited  
4163 and courses are financially self-supporting; and

4164 (d) secondary school level courses through the Statewide Online Education Program in  
4165 accordance with Section [~~53A-15-1205~~] [53F-4-504](#).

4166 (3) Except as provided in Subsection (2)(d), a technical college may not:

4167 (a) offer courses other than noncredit career and technical education or the noncredit,  
4168 basic instruction described in Subsections (2)(b) and (c);

4169 (b) offer a degree;

4170 (c) offer career and technical education or basic instruction outside the geographic area  
4171 served by the technical college without a cooperative agreement between an affected  
4172 institution, except as provided in Subsection (6);

4173 (d) provide tenure or academic rank for its instructors; or

4174 (e) participate in intercollegiate athletics.

4175 (4) The mission of a technical college is limited to noncredit career and technical  
4176 education and may not expand to include credit-based academic programs typically offered by  
4177 community colleges or other institutions of higher education.

4178 (5) A technical college shall be recognized as a member of the Utah System of  
4179 Technical Colleges, and regional affiliation shall be retained and recognized through local  
4180 designations such as "Bridgerland Technical College: A member technical college of the Utah  
4181 System of Technical Colleges."

4182 (6) (a) A technical college may offer career and technical education or basic instruction  
4183 outside the geographic area served by the technical college without a cooperative agreement, as  
4184 required in Subsection (3)(c), if:

4185 (i) the career and technical education or basic instruction is specifically requested by:

4186 (A) an employer; or

4187 (B) a craft, trade, or apprenticeship program;

4188 (ii) the technical college notifies the affected institution about the request; and

4189 (iii) the affected institution is given an opportunity to make a proposal, prior to any  
4190 contract being finalized or training being initiated by the technical college, to the employer,  
4191 craft, trade, or apprenticeship program about offering the requested career and technical  
4192 education or basic instruction, provided that the proposal shall be presented no later than one  
4193 business week from the delivery of the notice described under Subsection (6)(a)(ii).

4194 (b) The requirements under Subsection (6)(a)(iii) do not apply if there is a prior  
4195 training relationship.

4196 Section 60. Section **53B-10-101** is amended to read:

4197 **53B-10-101. Terrel H. Bell Teaching Incentive Loans program -- Eligible**  
4198 **students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet**  
4199 **requirements -- Duration of incentive loans.**

4200 (1) (a) A Terrel H. Bell Teaching Incentive Loans program is established to recruit and  
4201 train superior candidates for teaching in Utah's public school system as a component of the  
4202 teacher quality continuum referred to in Subsections [~~53A-1a-104~~] [53E-2-302](#)(7) and  
4203 [~~53A-6-102~~] [53E-6-103](#)(2)(a).

4204 (b) Under the program, the incentive loans may be used in any of Utah's state-operated  
4205 institutions of higher education or at a private institution of higher education in Utah that offers  
4206 a state-approved teacher education program.

4207 (2) (a) The State Board of Regents shall award the incentive loans to college students  
4208 who have been admitted to, or have made application to and are prepared to enter into, a  
4209 program preparing students for licensure and who declare an intent to complete the prescribed  
4210 course of instruction and to teach in this state in accordance with the priorities described under  
4211 Subsection (5)(c).

4212 (b) The incentive loan may be canceled at any time by the institution of attendance if:

4213 (i) the student fails to make reasonable progress towards completion of licensing  
4214 requirements; or

4215 (ii) it appears to be a reasonable certainty that the student does not intend to teach in  
4216 Utah.

4217 (c) The State Board of Regents may grant leaves of absence to incentive loan holders.

4218 (3) The State Board of Regents may require an incentive loan recipient who fails to  
4219 complete the requirements for licensing without good cause to repay all tuition and fees  
4220 provided by the loan, together with appropriate interest.

4221 (4) (a) The State Board of Regents may require an incentive loan recipient who does  
4222 not work in the state's public school system or a private school within the state within two years  
4223 after graduation to repay all tuition and fees provided by the loan, together with appropriate  
4224 interest, unless waived for good cause.

4225 (b) (i) A recipient who does not teach for a term equal to the number of years of the  
4226 incentive loan within a reasonable period of time after graduation shall repay a graduated  
4227 portion of the tuition and fees based upon the uncompleted term.

4228 (ii) One year of teaching is credit for one year's tuition and fees.

4229 (c) All repayments made under this Subsection (4) are for use in the Terrel H. Bell  
4230 Teaching Incentive Loans program.

4231 (5) (a) Each incentive loan is valid for up to four years of full-time equivalent  
4232 enrollment, or until requirements for licensing or advanced licensing have been met, whichever  
4233 is less.

4234 (b) (i) Incentive loans apply to both tuition and fees in amounts and are subject to  
4235 conditions approved by the State Board of Regents, based upon criteria developed to insure that  
4236 all recipients of the loans will pursue an education career within the state.

4237 (ii) An incentive loan for tuition and fees at a private institution may not exceed the  
4238 average scholarship amounts granted for tuition and fees at public institutions of higher  
4239 education within the state.

4240 (c) Incentive loans shall be awarded in accordance with prioritized critical areas of  
4241 need for teaching expertise within the state, as determined by the State Board of Education's  
4242 criticality index and school district priorities based upon data provided by the school district,  
4243 and may include preparing persons as:

- 4244 (i) a special education teacher;
- 4245 (ii) a speech or language pathologist; or
- 4246 (iii) another licensed professional providing services in the public schools to pupils
- 4247 with disabilities.

4248 Section 61. Section **53B-16-108** is amended to read:

4249 **53B-16-108. Courses offered through the Statewide Online Education Program.**

4250 An institution of higher education listed in Section [53B-2-101](#) may offer a secondary  
4251 school level course through the Statewide Online Education Program in accordance with  
4252 Section [~~53A-15-1205~~] [53F-4-504](#).

4253 Section 62. Section **53B-16-404** is amended to read:

4254 **53B-16-404. Internship programs -- Criminal background checks.**

4255 An institution of higher education shall require an officer or employee of the institution  
4256 or a cooperating employer, who will be given significant unsupervised access to a minor  
4257 student in connection with the student's activities as an intern, to submit to a criminal  
4258 background check on the same basis as a volunteer under Section [~~53A-15-1503~~] [53G-11-402](#).

4259 Section 63. Section **53C-1-203** is amended to read:

4260 **53C-1-203. Board of trustees nominating committee -- Composition --**  
4261 **Responsibilities -- Per diem and expenses.**

4262 (1) There is established an 11 member board of trustees nominating committee.

4263 (2) (a) The State Board of Education shall appoint five members to the nominating  
4264 committee from different geographical areas of the state.

4265 (b) The governor shall appoint five members to the nominating committee on or before  
4266 the December 1 of the year preceding the vacancy on the nominating committee as follows:

4267 (i) one individual from a nomination list of at least two names of individuals  
4268 knowledgeable about institutional trust lands submitted on or before the October 1 of the year  
4269 preceding the vacancy on the nominating committee by the University of Utah and Utah State  
4270 University on an alternating basis every four years;

4271 (ii) one individual from a nomination list of at least two names submitted by the Utah  
4272 Farm Bureau in consultation with the Utah Cattleman's Association and the Utah Wool  
4273 Growers' Association on or before the October 1 of the year preceding the vacancy on the  
4274 nominating committee;

4275 (iii) one individual from a nomination list of at least two names submitted by the Utah  
4276 Petroleum Association on or before the October 1 of the year preceding the vacancy on the  
4277 nominating committee;

4278 (iv) one individual from a nomination list of at least two names submitted by the Utah  
4279 Mining Association on or before the October 1 of the year preceding the vacancy on the  
4280 nominating committee; and

4281 (v) one individual from a nomination list of at least two names submitted by the  
4282 executive director of the Department of Natural Resources after consultation with statewide  
4283 wildlife and conservation organizations on or before the October 1 of the year preceding the  
4284 vacancy on the nominating committee.

4285 (c) The president of the Utah Association of Counties shall designate the chair of the  
4286 Public Lands Steering Committee, who must be an elected county commissioner or councilor,  
4287 to serve as the eleventh member of the nominating committee.

4288 (3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year  
4289 term.

4290 (b) Notwithstanding the requirements of Subsection (3)(a), the state board and the  
4291 governor shall, at the time of appointment or reappointment, adjust the length of terms to  
4292 ensure that the terms of committee members are staggered so that approximately half of the  
4293 committee is appointed every two years.

4294 (c) When a vacancy occurs in the membership for any reason, the replacement shall be  
4295 appointed for the unexpired term.

4296 (4) The nominating committee shall select a chair and vice chair from its membership  
4297 by majority vote.

4298 (5) (a) The nominating committee shall nominate at least two candidates for each  
4299 position or vacancy which occurs on the board of trustees except for the governor's appointee  
4300 under Subsection [53C-1-202\(5\)](#).

4301 (b) The nominations shall be by majority vote of the committee.

4302 (6) A member may not receive compensation or benefits for the member's service, but  
4303 may receive per diem and travel expenses in accordance with:

4304 (a) Section [63A-3-106](#);

4305 (b) Section [63A-3-107](#); and

4306 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
4307 [63A-3-107](#).

4308 (7) The School Children's Trust Section, established in Section [~~53A-16-101.6~~]  
4309 [53E-3-514](#), shall provide staff support to the nominating committee.

4310 Section 64. Section **53D-1-102** is amended to read:

4311 **53D-1-102. Definitions.**

4312 (1) "Account" means the School and Institutional Trust Fund Management Account,  
4313 created in Section [53D-1-203](#).

4314 (2) "Beneficiaries":

4315 (a) means those for whose benefit the trust fund is managed and preserved, consistent  
4316 with the enabling act, the Utah Constitution, and state law; and

4317 (b) does not include other government institutions or agencies, the public at large, or  
4318 the general welfare of the state.

4319 (3) "Board" means the board of trustees established in Section [53D-1-301](#).

4320 (4) "Director" means the director of the office.

4321 (5) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the people  
4322 of Utah to form a constitution and state government and to be admitted into the Union.

4323 (6) "Nominating committee" means the committee established under Section  
4324 [53D-1-501](#).

4325 (7) "Office" means the School and Institutional Trust Fund Office, created in Section  
4326 [53D-1-201](#).

4327 (8) "School children's trust section" means the School Children's Trust Section under  
4328 the State Board of Education, established in Section [~~53A-16-101.6~~] [53E-3-514](#).

4329 (9) "Trust fund" means money derived from:

4330 (a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the  
4331 enabling act;

4332 (b) proceeds referred to in Section 9 of the enabling act from the sale of public land;  
4333 and

4334 (c) revenue and assets referred to in Utah Constitution, Article X, Section 5,  
4335 Subsections (1)(c), (e), and (f).

4336 Section 65. Section **53D-1-403** is amended to read:

4337 **53D-1-403. Reports.**

4338 (1) At least annually, the director shall report in person to the Legislative Management  
4339 Committee, the governor, and the State Board of Education, concerning the office's  
4340 investments, performance, estimated distributions, and other activities.

4341 (2) The director shall report to the board concerning the work of the director and the  
4342 investment activities and other activities of the office:

4343 (a) in a public meeting at least six times per year; and

4344 (b) as otherwise requested by the board.

4345 (3) (a) Before November 1 of each year, the director shall:

4346 (i) submit a written report to school community councils, created under Section

4347 ~~[53A-1a-108]~~ [53G-7-1202](#), and charter trust land councils, established under Section

4348 ~~[53A-16-101.5]~~ [53F-2-404](#) concerning the office's investments, performance, estimated

4349 distributions, and other activities; and

4350 (ii) post the written report described in Subsection (3)(a)(i) on the office's website.

4351 (b) A report under Subsection (3)(a) shall be prepared in simple language designed to  
4352 be understood by the general public.

4353 (4) The director shall provide to the board:

4354 (a) monthly written reports on the activities of the office;

4355 (b) quarterly financial reports; and

4356 (c) any other report requested by the board.

4357 (5) The director shall:

4358 (a) invite the director of the school children's trust section to attend any meeting at  
4359 which the director gives a report under this section; and

4360 (b) provide the director of the school children's trust section:

4361 (i) a copy of any written report prepared under this section; and

4362 (ii) any other report requested by the director of the school children's trust section.

4363 Section 66. Section **58-11a-302** is amended to read:

4364 **58-11a-302. Qualifications for licensure.**

4365 (1) Each applicant for licensure as a barber shall:

4366 (a) submit an application in a form prescribed by the division;

4367 (b) pay a fee determined by the department under Section [63J-1-504](#);

- 4368 (c) be of good moral character;
- 4369 (d) provide satisfactory documentation of:
  - 4370 (i) graduation from a licensed or recognized barber school, or a licensed or recognized
  - 4371 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of
  - 4372 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;
  - 4373 (ii) (A) graduation from a recognized barber school located in a state other than Utah
  - 4374 whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of
  - 4375 credit hours; and
  - 4376 (B) practice as a licensed barber in a state other than Utah for not less than the number
  - 4377 of hours required to equal 1,000 total hours when added to the hours of instruction described in
  - 4378 Subsection (1)(d)(ii)(A); or
  - 4379 (iii) completion of an approved barber apprenticeship; and
- 4380 (e) meet the examination requirement established by rule.
- 4381 (2) Each applicant for licensure as a barber instructor shall:
  - 4382 (a) submit an application in a form prescribed by the division;
  - 4383 (b) subject to Subsection (24), pay a fee determined by the department under Section
  - 4384 [63J-1-504](#);
  - 4385 (c) provide satisfactory documentation that the applicant is currently licensed as a
  - 4386 barber;
  - 4387 (d) be of good moral character;
  - 4388 (e) provide satisfactory documentation of completion of:
    - 4389 (i) an instructor training program conducted by a licensed or recognized school, as
    - 4390 defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit
    - 4391 hours;
    - 4392 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
    - 4393 recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent
    - 4394 number of credit hours; or
    - 4395 (iii) a minimum of 2,000 hours of experience as a barber; and
  - 4396 (f) meet the examination requirement established by rule.
- 4397 (3) Each applicant for licensure as a barber school shall:
  - 4398 (a) submit an application in a form prescribed by the division;

- 4399 (b) pay a fee determined by the department under Section 63J-1-504; and  
4400 (c) provide satisfactory documentation:  
4401 (i) of appropriate registration with the Division of Corporations and Commercial Code;  
4402 (ii) of business licensure from the city, town, or county in which the school is located;  
4403 (iii) that the applicant's physical facilities comply with the requirements established by  
4404 rule; and  
4405 (iv) that the applicant meets:  
4406 (A) the standards for barber schools, including staff and accreditation requirements,  
4407 established by rule; and  
4408 (B) the requirements for recognition as an institution of postsecondary study as  
4409 described in Subsection (22).  
4410 (4) Each applicant for licensure as a cosmetologist/barber shall:  
4411 (a) submit an application in a form prescribed by the division;  
4412 (b) pay a fee determined by the department under Section 63J-1-504;  
4413 (c) be of good moral character;  
4414 (d) provide satisfactory documentation of:  
4415 (i) graduation from a licensed or recognized cosmetology/barber school whose  
4416 curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of  
4417 credit hours, with full flexibility within those hours;  
4418 (ii) (A) graduation from a recognized cosmetology/barber school located in a state  
4419 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the  
4420 equivalent number of credit hours, with full flexibility within those hours; and  
4421 (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less  
4422 than the number of hours required to equal 1,600 total hours when added to the hours of  
4423 instruction described in Subsection (4)(d)(ii)(A); or  
4424 (iii) completion of an approved cosmetology/barber apprenticeship; and  
4425 (e) meet the examination requirement established by rule.  
4426 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:  
4427 (a) submit an application in a form prescribed by the division;  
4428 (b) subject to Subsection (24), pay a fee determined by the department under Section  
4429 63J-1-504;

- 4430 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 4431 cosmetologist/barber;
- 4432 (d) be of good moral character;
- 4433 (e) provide satisfactory documentation of completion of:
- 4434 (i) an instructor training program conducted by a licensed or recognized school, as
- 4435 defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit
- 4436 hours;
- 4437 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
- 4438 recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent
- 4439 number of credit hours; or
- 4440 (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and
- 4441 (f) meet the examination requirement established by rule.
- 4442 (6) Each applicant for licensure as a cosmetologist/barber school shall:
- 4443 (a) submit an application in a form prescribed by the division;
- 4444 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 4445 (c) provide satisfactory documentation:
- 4446 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4447 (ii) of business licensure from the city, town, or county in which the school is located;
- 4448 (iii) that the applicant's physical facilities comply with the requirements established by
- 4449 rule; and
- 4450 (iv) that the applicant meets:
- 4451 (A) the standards for cosmetology schools, including staff and accreditation
- 4452 requirements, established by rule; and
- 4453 (B) the requirements for recognition as an institution of postsecondary study as
- 4454 described in Subsection (22).
- 4455 (7) Each applicant for licensure as an electrologist shall:
- 4456 (a) submit an application in a form prescribed by the division;
- 4457 (b) pay a fee determined by the department under Section [63J-1-504](#);
- 4458 (c) be of good moral character;
- 4459 (d) provide satisfactory documentation of having graduated from a licensed or
- 4460 recognized electrology school after completing a curriculum of 600 hours of instruction or the

- 4461 equivalent number of credit hours; and
- 4462 (e) meet the examination requirement established by rule.
- 4463 (8) Each applicant for licensure as an electrologist instructor shall:
- 4464 (a) submit an application in a form prescribed by the division;
- 4465 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4466 [63J-1-504](#);
- 4467 (c) provide satisfactory documentation that the applicant is currently licensed as an
- 4468 electrologist;
- 4469 (d) be of good moral character;
- 4470 (e) provide satisfactory documentation of completion of:
- 4471 (i) an instructor training program conducted by a licensed or recognized school, as
- 4472 defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit
- 4473 hours;
- 4474 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
- 4475 recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent
- 4476 number of credit hours; or
- 4477 (iii) a minimum of 1,000 hours of experience as an electrologist; and
- 4478 (f) meet the examination requirement established by rule.
- 4479 (9) Each applicant for licensure as an electrologist school shall:
- 4480 (a) submit an application in a form prescribed by the division;
- 4481 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 4482 (c) provide satisfactory documentation:
- 4483 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4484 (ii) of business licensure from the city, town, or county in which the school is located;
- 4485 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 4486 (iv) that the applicant meets:
- 4487 (A) the standards for electrologist schools, including staff, curriculum, and
- 4488 accreditation requirements, established by rule; and
- 4489 (B) the requirements for recognition as an institution of postsecondary study as
- 4490 described in Subsection (22).
- 4491 (10) Each applicant for licensure as an esthetician shall:

- 4492 (a) submit an application in a form prescribed by the division;
- 4493 (b) pay a fee determined by the department under Section 63J-1-504;
- 4494 (c) be of good moral character;
- 4495 (d) provide satisfactory documentation of one of the following:
- 4496 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized
- 4497 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic
- 4498 instruction with a minimum of 600 hours or the equivalent number of credit hours;
- 4499 (ii) completion of an approved esthetician apprenticeship; or
- 4500 (iii) (A) graduation from a recognized cosmetology/barber school located in a state
- 4501 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
- 4502 equivalent number of credit hours, with full flexibility within those hours; and
- 4503 (B) practice as a licensed cosmetologist/barber for not less than the number of hours
- 4504 required to equal 1,600 total hours when added to the hours of instruction described in
- 4505 Subsection (10)(d)(iii)(A); and
- 4506 (e) meet the examination requirement established by division rule.
- 4507 (11) Each applicant for licensure as a master esthetician shall:
- 4508 (a) submit an application in a form prescribed by the division;
- 4509 (b) pay a fee determined by the department under Section 63J-1-504;
- 4510 (c) be of good moral character;
- 4511 (d) provide satisfactory documentation of:
- 4512 (i) completion of at least 1,200 hours of training, or the equivalent number of credit
- 4513 hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the
- 4514 1,200 hours may have been completed:
- 4515 (A) at a licensed or recognized cosmetology/barbering school, if the applicant
- 4516 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or
- 4517 the equivalent number of credit hours, with full flexibility within those hours; or
- 4518 (B) at a licensed or recognized cosmetology/barber school located in a state other than
- 4519 Utah, if the applicant graduated from the school and its curriculum contained full flexibility
- 4520 within its hours of instruction; or
- 4521 (ii) completion of an approved master esthetician apprenticeship;
- 4522 (e) if the applicant will practice lymphatic massage, provide satisfactory documentation

- 4523 to show completion of 200 hours of training, or the equivalent number of credit hours, in  
4524 lymphatic massage as defined by division rule; and
- 4525 (f) meet the examination requirement established by division rule.
- 4526 (12) Each applicant for licensure as an esthetician instructor shall:
- 4527 (a) submit an application in a form prescribed by the division;
- 4528 (b) subject to Subsection (24), pay a fee determined by the department under Section  
4529 [63J-1-504](#);
- 4530 (c) provide satisfactory documentation that the applicant is currently licensed as a  
4531 master esthetician;
- 4532 (d) be of good moral character;
- 4533 (e) provide satisfactory documentation of completion of:
- 4534 (i) an instructor training program conducted by a licensed or recognized school, as  
4535 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit  
4536 hours;
- 4537 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
4538 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent  
4539 number of credit hours; or
- 4540 (iii) a minimum of 1,000 hours of experience in esthetics; and
- 4541 (f) meet the examination requirement established by rule.
- 4542 (13) Each applicant for licensure as an esthetics school shall:
- 4543 (a) submit an application in a form prescribed by the division;
- 4544 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 4545 (c) provide satisfactory documentation:
- 4546 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4547 (ii) of business licensure from the city, town, or county in which the school is located;
- 4548 (iii) that the applicant's physical facilities comply with the requirements established by  
4549 rule; and
- 4550 (iv) that the applicant meets:
- 4551 (A) the standards for esthetics schools, including staff, curriculum, and accreditation  
4552 requirements, established by division rule made in collaboration with the board; and
- 4553 (B) the requirements for recognition as an institution of postsecondary study as

4554 described in Subsection (22).

4555 (14) Each applicant for licensure as a hair designer shall:

4556 (a) submit an application in a form prescribed by the division;

4557 (b) pay a fee determined by the department under Section [63J-1-504](#);

4558 (c) be of good moral character;

4559 (d) provide satisfactory documentation of:

4560 (i) graduation from a licensed or recognized cosmetology/barber, hair design, or  
4561 barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the  
4562 equivalent number of credit hours, with full flexibility within those hours;

4563 (ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering  
4564 school located in a state other than Utah whose curriculum consists of less than 1,200 hours of  
4565 instruction, or the equivalent number of credit hours, with full flexibility within those hours;  
4566 and

4567 (B) practice as a licensed cosmetologist/barber or hair designer in a state other than  
4568 Utah for not less than the number of hours required to equal 1,200 total hours when added to  
4569 the hours of instruction described in Subsection (14)(d)(ii)(A); or

4570 (iii) being a state licensed cosmetologist/barber; and

4571 (e) meet the examination requirements established by rule.

4572 (15) Each applicant for licensure as a hair designer instructor shall:

4573 (a) submit an application in a form prescribed by the division;

4574 (b) subject to Subsection (24), pay a fee determined by the department under Section  
4575 [63J-1-504](#);

4576 (c) provide satisfactory documentation that the applicant is currently licensed as a hair  
4577 designer or as a cosmetologist/barber;

4578 (d) be of good moral character;

4579 (e) provide satisfactory documentation of completion of:

4580 (i) an instructor training program conducted by a licensed or recognized school, as  
4581 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit  
4582 hours;

4583 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or  
4584 recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent

4585 number of credit hours; or  
4586 (iii) a minimum of 2,500 hours of experience as a hair designer or as a  
4587 cosmetologist/barber; and  
4588 (f) meet the examination requirement established by rule.

4589 (16) Each applicant for licensure as a hair design school shall:  
4590 (a) submit an application in a form prescribed by the division;  
4591 (b) pay a fee determined by the department under Section [63J-1-504](#); and  
4592 (c) provide satisfactory documentation:  
4593 (i) of appropriate registration with the Division of Corporations and Commercial Code;  
4594 (ii) of business licensure from the city, town, or county in which the school is located;  
4595 (iii) that the applicant's physical facilities comply with the requirements established by  
4596 rule; and  
4597 (iv) that the applicant meets:  
4598 (A) the standards for a hair design school, including staff and accreditation  
4599 requirements, established by rule; and  
4600 (B) the requirements for recognition as an institution of postsecondary study as  
4601 described in Subsection (22).

4602 (17) Each applicant for licensure as a nail technician shall:  
4603 (a) submit an application in a form prescribed by the division;  
4604 (b) pay a fee determined by the department under Section [63J-1-504](#);  
4605 (c) be of good moral character;  
4606 (d) provide satisfactory documentation of:  
4607 (i) graduation from a licensed or recognized nail technology school, or a licensed or  
4608 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of  
4609 instruction, or the equivalent number of credit hours;  
4610 (ii) (A) graduation from a recognized nail technology school located in a state other  
4611 than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent  
4612 number of credit hours; and  
4613 (B) practice as a licensed nail technician in a state other than Utah for not less than the  
4614 number of hours required to equal 300 total hours when added to the hours of instruction  
4615 described in Subsection (17)(d)(ii)(A); or

- 4616 (iii) completion of an approved nail technician apprenticeship; and
- 4617 (e) meet the examination requirement established by division rule.
- 4618 (18) Each applicant for licensure as a nail technician instructor shall:
- 4619 (a) submit an application in a form prescribed by the division;
- 4620 (b) subject to Subsection (24), pay a fee determined by the department under Section
- 4621 [63J-1-504](#);
- 4622 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
- 4623 technician;
- 4624 (d) be of good moral character;
- 4625 (e) provide satisfactory documentation of completion of:
- 4626 (i) an instructor training program conducted by a licensed or recognized school, as
- 4627 defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;
- 4628 (ii) an on-the-job instructor training program conducted by a licensed instructor at a
- 4629 licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the
- 4630 equivalent number of credit hours; or
- 4631 (iii) a minimum of 600 hours of experience in nail technology; and
- 4632 (f) meet the examination requirement established by rule.
- 4633 (19) Each applicant for licensure as a nail technology school shall:
- 4634 (a) submit an application in a form prescribed by the division;
- 4635 (b) pay a fee determined by the department under Section [63J-1-504](#); and
- 4636 (c) provide satisfactory documentation:
- 4637 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 4638 (ii) of business licensure from the city, town, or county in which the school is located;
- 4639 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 4640 (iv) that the applicant meets:
- 4641 (A) the standards for nail technology schools, including staff, curriculum, and
- 4642 accreditation requirements, established by rule; and
- 4643 (B) the requirements for recognition as an institution of postsecondary study as
- 4644 described in Subsection (22).
- 4645 (20) Each applicant for licensure under this chapter whose education in the field for
- 4646 which a license is sought was completed at a foreign school may satisfy the educational

4647 requirement for licensure by demonstrating, to the satisfaction of the division, the educational  
4648 equivalency of the foreign school education with a licensed school under this chapter.

4649 (21) (a) A licensed or recognized school under this section shall accept credit hours  
4650 towards graduation for documented, relevant, and substantially equivalent coursework  
4651 previously completed by:

4652 (i) a student that did not complete the student's education while attending a different  
4653 school; or

4654 (ii) a licensee of any other profession listed in this section, based on the licensee's  
4655 schooling, apprenticeship, or experience.

4656 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
4657 consistent with this section, the division may make rules governing the acceptance of credit  
4658 hours under Subsection (21)(a).

4659 (22) A school licensed or applying for licensure under this chapter shall maintain  
4660 recognition as an institution of postsecondary study by meeting the following conditions:

4661 (a) the school shall admit as a regular student only an individual who has earned a  
4662 recognized high school diploma or the equivalent of a recognized high school diploma, or who  
4663 is beyond the age of compulsory high school attendance as prescribed by [~~Title 53A, Chapter~~  
4664 ~~11, Students in Public Schools~~] Title 53G, Chapter 6, Part 2, Compulsory Education; and

4665 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for  
4666 licensure by name, under this chapter to offer one or more training programs beyond the  
4667 secondary level.

4668 (23) A person seeking to qualify for licensure under this chapter by apprenticing in an  
4669 approved apprenticeship shall register with the division as described in Section [58-11a-306](#).

4670 (24) The department may only charge a fee to a person applying for licensure as any  
4671 type of instructor under this chapter if the person is not a licensed instructor in any other  
4672 profession under this chapter.

4673 Section 67. Section **58-41-4** is amended to read:

4674 **58-41-4. Exemptions from chapter.**

4675 (1) In addition to the exemptions from licensure in Section [58-1-307](#), the following  
4676 persons may engage in the practice of speech-language pathology and audiology subject to the  
4677 stated circumstances and limitations without being licensed under this chapter:

4678 (a) a qualified person licensed in this state under any law existing in this state prior to  
4679 May 13, 1975, from engaging in the profession for which he is licensed;

4680 (b) a medical doctor, physician, or surgeon licensed in this state, from engaging in his  
4681 specialty in the practice of medicine;

4682 (c) a hearing aid dealer or salesman from selling, fitting, adjusting, and repairing  
4683 hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid  
4684 dealer may not conduct audiologic testing on persons under the age of 18 years except under  
4685 the direct supervision of an audiologist licensed under this chapter;

4686 (d) a person who has obtained a valid and current credential issued by the State Board  
4687 of Education while performing specifically the functions of a speech-language pathologist or  
4688 audiologist, in no way in his own interest, solely within the confines of and under the direction  
4689 and jurisdiction of and only in the academic interest of the schools by which employed in this  
4690 state;

4691 (e) a person employed as a speech-language pathologist or audiologist by federal  
4692 government agencies or subdivisions or, prior to July 1, 1989, by state or local government  
4693 agencies or subdivisions, while specifically performing speech-language pathology or  
4694 audiology services in no way in his own interest, solely within the confines of and under the  
4695 direction and jurisdiction of and in the specific interest of that agency or subdivision;

4696 (f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or  
4697 monetary or other compensation, without being licensed; however, such person may elect to be  
4698 subject to the requirements of this chapter;

4699 (g) a person employed by accredited colleges or universities as a speech-language  
4700 pathologist or audiologist from performing the services or functions described in this chapter  
4701 when they are:

4702 (i) performed solely as an assigned teaching function of employment;

4703 (ii) solely in academic interest and pursuit as a function of that employment;

4704 (iii) in no way for their own interest; and

4705 (iv) provided for no fee, monetary or otherwise, other than their agreed institutional  
4706 salary;

4707 (h) a person pursuing a course of study leading to a degree in speech-language  
4708 pathology or audiology while enrolled in an accredited college or university, provided those

4709 activities constitute an assigned, directed, and supervised part of his curricular study, and in no  
4710 other interest, and that all examinations, tests, histories, charts, progress notes, reports,  
4711 correspondence, and all documents and records which he produces be identified clearly as  
4712 having been conducted and prepared by a student in training and that such a person is  
4713 obviously identified and designated by appropriate title clearly indicating the training status  
4714 and provided that he does not hold himself out directly or indirectly as being qualified to  
4715 practice independently;

4716 (i) a person trained in elementary audiometry and qualified to perform basic  
4717 audiometric tests while employed by a licensed medical doctor to perform solely for him while  
4718 under his direct supervision, the elementary conventional audiometric tests of air conduction  
4719 screening, air conduction threshold testing, and tympanometry;

4720 (j) a person while performing as a speech-language pathologist or audiologist for the  
4721 purpose of obtaining required professional experience under the provisions of this chapter, if he  
4722 meets all training requirements and is professionally responsible to and under the supervision  
4723 of a speech-language pathologist or audiologist who holds the CCC or a state license in  
4724 speech-language pathology or audiology. This provision is applicable only during the time that  
4725 person is obtaining the required professional experience;

4726 (k) a corporation, partnership, trust, association, group practice, or like organization  
4727 engaging in speech-language pathology or audiology services without certification or license, if  
4728 it acts only through employees or consists only of persons who are licensed under this chapter;

4729 (l) performance of speech-language pathology or audiology services in this state by a  
4730 speech-language pathologist or audiologist who is not a resident of this state and is not licensed  
4731 under this chapter if those services are performed for no more than one month in any calendar  
4732 year in association with a speech-language pathologist or audiologist licensed under this  
4733 chapter, and if that person meets the qualifications and requirements for application for  
4734 licensure described in Section 58-41-5; and

4735 (m) a person certified under [~~Title 53A, State System of Public Education~~] Title 53E,  
4736 Public Education System -- State Administration, as a teacher of the deaf, from providing the  
4737 services or performing the functions he is certified to perform.

4738 (2) No person is exempt from the requirements of this chapter who performs or  
4739 provides any services as a speech-language pathologist or audiologist for which a fee, salary,

4740 bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who  
4741 engages any part of his professional work for a fee practicing in conjunction with, by  
4742 permission of, or apart from his position of employment as speech-language pathologist or  
4743 audiologist in any branch or subdivision of local, state, or federal government or as otherwise  
4744 identified in this section.

4745 Section 68. Section **58-61-307** is amended to read:

4746 **58-61-307. Exemptions from licensure.**

4747 (1) Except as modified in Section **58-61-301**, the exemptions from licensure in Section  
4748 **58-1-307** apply to this chapter.

4749 (2) In addition to the exemptions from licensure in Section **58-1-307**, the following  
4750 when practicing within the scope of the license held, may engage in acts included within the  
4751 definition of practice as a psychologist, subject to the stated circumstances and limitations,  
4752 without being licensed under this chapter:

4753 (a) a physician and surgeon or osteopathic physician licensed under Chapter 67, Utah  
4754 Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

4755 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b,  
4756 Nurse Practice Act;

4757 (c) a recognized member of the clergy while functioning in his ministerial capacity as  
4758 long as he does not represent himself as or use the title of psychologist;

4759 (d) an individual who is offering expert testimony in any proceeding before a court,  
4760 administrative hearing, deposition upon the order of any court or other body having power to  
4761 order the deposition, or proceedings before any master, referee, or alternative dispute resolution  
4762 provider;

4763 (e) an individual engaged in performing hypnosis who is not licensed under this title in  
4764 a profession which includes hypnosis in its scope of practice, and who:

4765 (i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or  
4766 altering lifestyles or habits, such as eating or smoking, through hypnosis;

4767 (B) consults with a client to determine current motivation and behavior patterns;

4768 (C) prepares the client to enter hypnotic states by explaining how hypnosis works and  
4769 what the client will experience;

4770 (D) tests clients to determine degrees of suggestibility;

- 4771 (E) applies hypnotic techniques based on interpretation of consultation results and  
4772 analysis of client's motivation and behavior patterns; and
- 4773 (F) trains clients in self-hypnosis conditioning;
- 4774 (ii) may not:
- 4775 (A) engage in the practice of mental health therapy;
- 4776 (B) represent himself using the title of a license classification in Subsection  
4777 [58-60-102\(5\)](#); or
- 4778 (C) use hypnosis with or treat a medical, psychological, or dental condition defined in  
4779 generally recognized diagnostic and statistical manuals of medical, psychological, or dental  
4780 disorders;
- 4781 (f) an individual's exemption from licensure under Subsection [58-1-307\(1\)\(b\)](#)  
4782 terminates when the student's training is no longer supervised by qualified faculty or staff and  
4783 the activities are no longer a defined part of the degree program;
- 4784 (g) an individual holding an earned doctoral degree in psychology who is employed by  
4785 an accredited institution of higher education and who conducts research and teaches in that  
4786 individual's professional field, but only if the individual does not engage in providing delivery  
4787 or supervision of professional services regulated under this chapter to individuals or groups  
4788 regardless of whether there is compensation for the services;
- 4789 (h) any individual who was employed as a psychologist by a state, county, or municipal  
4790 agency or other political subdivision of the state prior to July 1, 1981, and who subsequently  
4791 has maintained employment as a psychologist in the same state, county, or municipal agency or  
4792 other political subdivision while engaged in the performance of his official duties for that  
4793 agency or political subdivision;
- 4794 (i) an individual licensed as a school psychologist under Section [~~53A-6-104~~]  
4795 [53E-6-201](#);
- 4796 (i) may represent himself as and use the terms "school psychologist" or "licensed  
4797 school psychologist"; and
- 4798 (ii) is restricted in his practice to employment within settings authorized by the State  
4799 Board of Education;
- 4800 (j) an individual providing advice or counsel to another individual in a setting of their  
4801 association as friends or relatives and in a nonprofessional and noncommercial relationship, if

4802 there is no compensation paid for the advice or counsel; and

4803 (k) an individual who is licensed, in good standing, to practice mental health therapy in  
4804 a state or territory of the United States outside of Utah may provide short term transitional  
4805 mental health therapy remotely to a client in Utah only if:

4806 (i) the individual is present in the state or territory where the individual is licensed to  
4807 practice mental health therapy;

4808 (ii) the client relocates to Utah;

4809 (iii) the client is a client of the individual immediately before the client relocates to  
4810 Utah;

4811 (iv) the individual provides the short term transitional mental health therapy to the  
4812 client only during the 45 day period beginning on the day on which the client relocates to Utah;

4813 (v) within 10 days after the day on which the client relocates to Utah, the individual  
4814 provides written notice to the division of the individual's intent to provide short term  
4815 transitional mental health therapy remotely to the client; and

4816 (vi) the individual does not engage in unlawful conduct or unprofessional conduct.

4817 Section 69. Section **59-2-102** is amended to read:

4818 **59-2-102. Definitions.**

4819 As used in this chapter and title:

4820 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of  
4821 engaging in dispensing activities directly affecting agriculture or horticulture with an  
4822 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or  
4823 rotorcraft's use for agricultural and pest control purposes.

4824 (2) "Air charter service" means an air carrier operation that requires the customer to  
4825 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled  
4826 trip.

4827 (3) "Air contract service" means an air carrier operation available only to customers  
4828 that engage the services of the carrier through a contractual agreement and excess capacity on  
4829 any trip and is not available to the public at large.

4830 (4) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

4831 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

4832 (i) operates:

- 4833 (A) on an interstate route; and  
4834 (B) on a scheduled basis; and  
4835 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a  
4836 regularly scheduled route.
- 4837 (b) "Airline" does not include an:  
4838 (i) air charter service; or  
4839 (ii) air contract service.
- 4840 (6) "Assessment roll" means a permanent record of the assessment of property as  
4841 assessed by the county assessor and the commission and may be maintained manually or as a  
4842 computerized file as a consolidated record or as multiple records by type, classification, or  
4843 categories.
- 4844 (7) "Base parcel" means a parcel of property that was legally:  
4845 (a) subdivided into two or more lots, parcels, or other divisions of land; or  
4846 (b) (i) combined with one or more other parcels of property; and  
4847 (ii) subdivided into two or more lots, parcels, or other divisions of land.
- 4848 (8) (a) "Certified revenue levy" means a property tax levy that provides an amount of  
4849 ad valorem property tax revenue equal to the sum of:  
4850 (i) the amount of ad valorem property tax revenue to be generated statewide in the  
4851 previous year from imposing a school minimum basic tax rate, as specified in Section  
4852 [~~53A-17a-135~~] [53F-2-301](#), or multicounty assessing and collecting levy, as specified in Section  
4853 [59-2-1602](#); and  
4854 (ii) the product of:  
4855 (A) eligible new growth, as defined in Section [59-2-924](#); and  
4856 (B) the school minimum basic tax rate or multicounty assessing and collecting levy  
4857 certified by the commission for the previous year.
- 4858 (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not  
4859 include property tax revenue received by a taxing entity from personal property that is:  
4860 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and  
4861 (ii) semiconductor manufacturing equipment.
- 4862 (c) For purposes of calculating the certified revenue levy described in this Subsection  
4863 (8), the commission shall use:

4864 (i) the taxable value of real property assessed by a county assessor contained on the  
4865 assessment roll;

4866 (ii) the taxable value of real and personal property assessed by the commission; and

4867 (iii) the taxable year end value of personal property assessed by a county assessor  
4868 contained on the prior year's assessment roll.

4869 (9) "County-assessed commercial vehicle" means:

4870 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section  
4871 [41-1a-301](#) and is not operated interstate to transport the vehicle owner's goods or property in  
4872 furtherance of the owner's commercial enterprise;

4873 (b) any passenger vehicle owned by a business and used by its employees for  
4874 transportation as a company car or vanpool vehicle; and

4875 (c) vehicles that are:

4876 (i) especially constructed for towing or wrecking, and that are not otherwise used to  
4877 transport goods, merchandise, or people for compensation;

4878 (ii) used or licensed as taxicabs or limousines;

4879 (iii) used as rental passenger cars, travel trailers, or motor homes;

4880 (iv) used or licensed in this state for use as ambulances or hearses;

4881 (v) especially designed and used for garbage and rubbish collection; or

4882 (vi) used exclusively to transport students or their instructors to or from any private,  
4883 public, or religious school or school activities.

4884 (10) (a) Except as provided in Subsection (10)(b), for purposes of Section [59-2-801](#),  
4885 "designated tax area" means a tax area created by the overlapping boundaries of only the  
4886 following taxing entities:

4887 (i) a county; and

4888 (ii) a school district.

4889 (b) "Designated tax area" includes a tax area created by the overlapping boundaries of  
4890 the taxing entities described in Subsection (10)(a) and:

4891 (i) a city or town if the boundaries of the school district under Subsection (10)(a) and  
4892 the boundaries of the city or town are identical; or

4893 (ii) a special service district if the boundaries of the school district under Subsection  
4894 (10)(a) are located entirely within the special service district.

4895 (11) "Eligible judgment" means a final and unappealable judgment or order under  
4896 Section 59-2-1330:

4897 (a) that became a final and unappealable judgment or order no more than 14 months  
4898 before the day on which the notice described in Section 59-2-919.1 is required to be provided;  
4899 and

4900 (b) for which a taxing entity's share of the final and unappealable judgment or order is  
4901 greater than or equal to the lesser of:

4902 (i) \$5,000; or

4903 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the  
4904 previous fiscal year.

4905 (12) (a) "Escaped property" means any property, whether personal, land, or any  
4906 improvements to the property, that is subject to taxation and is:

4907 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed  
4908 to the wrong taxpayer by the assessing authority;

4909 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to  
4910 comply with the reporting requirements of this chapter; or

4911 (iii) undervalued because of errors made by the assessing authority based upon  
4912 incomplete or erroneous information furnished by the taxpayer.

4913 (b) "Escaped property" does not include property that is undervalued because of the use  
4914 of a different valuation methodology or because of a different application of the same valuation  
4915 methodology.

4916 (13) "Fair market value" means the amount at which property would change hands  
4917 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell  
4918 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair  
4919 market value" shall be determined using the current zoning laws applicable to the property in  
4920 question, except in cases where there is a reasonable probability of a change in the zoning laws  
4921 affecting that property in the tax year in question and the change would have an appreciable  
4922 influence upon the value.

4923 (14) (a) "Farm machinery and equipment," for purposes of the exemption provided  
4924 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,  
4925 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,

4926 tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and  
4927 cubers, and any other machinery or equipment used primarily for agricultural purposes.

4928 (b) "Farm machinery and equipment" does not include vehicles required to be  
4929 registered with the Motor Vehicle Division or vehicles or other equipment used for business  
4930 purposes other than farming.

4931 (15) "Geothermal fluid" means water in any form at temperatures greater than 120  
4932 degrees centigrade naturally present in a geothermal system.

4933 (16) "Geothermal resource" means:

4934 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;  
4935 and

4936 (b) the energy, in whatever form, including pressure, present in, resulting from, created  
4937 by, or which may be extracted from that natural heat, directly or through a material medium.

4938 (17) (a) "Goodwill" means:

4939 (i) acquired goodwill that is reported as goodwill on the books and records that a  
4940 taxpayer maintains for financial reporting purposes; or

4941 (ii) the ability of a business to:

4942 (A) generate income that exceeds a normal rate of return on assets and that results from  
4943 a factor described in Subsection (17)(b); or

4944 (B) obtain an economic or competitive advantage resulting from a factor described in  
4945 Subsection (17)(b).

4946 (b) The following factors apply to Subsection (17)(a)(ii):

4947 (i) superior management skills;

4948 (ii) reputation;

4949 (iii) customer relationships;

4950 (iv) patronage; or

4951 (v) a factor similar to Subsections (17)(b)(i) through (iv).

4952 (c) "Goodwill" does not include:

4953 (i) the intangible property described in Subsection (21)(a) or (b);

4954 (ii) locational attributes of real property, including:

4955 (A) zoning;

4956 (B) location;

- 4957 (C) view;
- 4958 (D) a geographic feature;
- 4959 (E) an easement;
- 4960 (F) a covenant;
- 4961 (G) proximity to raw materials;
- 4962 (H) the condition of surrounding property; or
- 4963 (I) proximity to markets;
- 4964 (iii) value attributable to the identification of an improvement to real property,
- 4965 including:
- 4966 (A) reputation of the designer, builder, or architect of the improvement;
- 4967 (B) a name given to, or associated with, the improvement; or
- 4968 (C) the historic significance of an improvement; or
- 4969 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 4970 of the existing tangible property in place working together as a unit.
- 4971 (18) "Governing body" means:
- 4972 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 4973 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 4974 Local Districts, the local district's board of trustees;
- 4975 (c) for a school district, the local board of education; or
- 4976 (d) for a special service district under Title 17D, Chapter 1, Special Service District
- 4977 Act:
- 4978 (i) the legislative body of the county or municipality that created the special service
- 4979 district, to the extent that the county or municipal legislative body has not delegated authority
- 4980 to an administrative control board established under Section [17D-1-301](#); or
- 4981 (ii) the administrative control board, to the extent that the county or municipal
- 4982 legislative body has delegated authority to an administrative control board established under
- 4983 Section [17D-1-301](#).
- 4984 (19) (a) For purposes of Section [59-2-103](#):
- 4985 (i) "household" means the association of individuals who live in the same dwelling,
- 4986 sharing its furnishings, facilities, accommodations, and expenses; and
- 4987 (ii) "household" includes married individuals, who are not legally separated, that have

4988 established domiciles at separate locations within the state.

4989 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4990 commission may make rules defining the term "domicile."

4991 (20) (a) Except as provided in Subsection (20)(c), "improvement" means a building,  
4992 structure, fixture, fence, or other item that is permanently attached to land, regardless of  
4993 whether the title has been acquired to the land, if:

4994 (i) (A) attachment to land is essential to the operation or use of the item; and

4995 (B) the manner of attachment to land suggests that the item will remain attached to the  
4996 land in the same place over the useful life of the item; or

4997 (ii) removal of the item would:

4998 (A) cause substantial damage to the item; or

4999 (B) require substantial alteration or repair of a structure to which the item is attached.

5000 (b) "Improvement" includes:

5001 (i) an accessory to an item described in Subsection (20)(a) if the accessory is:

5002 (A) essential to the operation of the item described in Subsection (20)(a); and

5003 (B) installed solely to serve the operation of the item described in Subsection (20)(a);

5004 and

5005 (ii) an item described in Subsection (20)(a) that is temporarily detached from the land  
5006 for repairs and remains located on the land.

5007 (c) "Improvement" does not include:

5008 (i) an item considered to be personal property pursuant to rules made in accordance  
5009 with Section [59-2-107](#);

5010 (ii) a moveable item that is attached to land for stability only or for an obvious  
5011 temporary purpose;

5012 (iii) (A) manufacturing equipment and machinery; or

5013 (B) essential accessories to manufacturing equipment and machinery;

5014 (iv) an item attached to the land in a manner that facilitates removal without substantial  
5015 damage to the land or the item; or

5016 (v) a transportable factory-built housing unit as defined in Section [59-2-1502](#) if that  
5017 transportable factory-built housing unit is considered to be personal property under Section  
5018 [59-2-1503](#).

- 5019 (21) "Intangible property" means:
- 5020 (a) property that is capable of private ownership separate from tangible property,
- 5021 including:
- 5022 (i) money;
- 5023 (ii) credits;
- 5024 (iii) bonds;
- 5025 (iv) stocks;
- 5026 (v) representative property;
- 5027 (vi) franchises;
- 5028 (vii) licenses;
- 5029 (viii) trade names;
- 5030 (ix) copyrights; and
- 5031 (x) patents;
- 5032 (b) a low-income housing tax credit;
- 5033 (c) goodwill; or
- 5034 (d) a renewable energy tax credit or incentive, including:
- 5035 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
- 5036 Code;
- 5037 (ii) a federal energy credit for qualified renewable electricity production facilities under
- 5038 Section 48, Internal Revenue Code;
- 5039 (iii) a federal grant for a renewable energy property under American Recovery and
- 5040 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- 5041 (iv) a tax credit under Subsection [59-7-614\(5\)](#).
- 5042 (22) "Livestock" means:
- 5043 (a) a domestic animal;
- 5044 (b) a fish;
- 5045 (c) a fur-bearing animal;
- 5046 (d) a honeybee; or
- 5047 (e) poultry.
- 5048 (23) "Low-income housing tax credit" means:
- 5049 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

5050 or

5051 (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

5052 (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

5053 (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous

5054 valuable mineral.

5055 (26) "Mining" means the process of producing, extracting, leaching, evaporating, or

5056 otherwise removing a mineral from a mine.

5057 (27) (a) "Mobile flight equipment" means tangible personal property that is owned or

5058 operated by an air charter service, air contract service, or airline and:

5059 (i) is capable of flight or is attached to an aircraft that is capable of flight; or

5060 (ii) is contained in an aircraft that is capable of flight if the tangible personal property

5061 is intended to be used:

5062 (A) during multiple flights;

5063 (B) during a takeoff, flight, or landing; and

5064 (C) as a service provided by an air charter service, air contract service, or airline.

5065 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare

5066 engine that is rotated at regular intervals with an engine that is attached to the aircraft.

5067 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5068 commission may make rules defining the term "regular intervals."

5069 (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,

5070 sand, rock, gravel, and all carboniferous materials.

5071 (29) "Part-year residential property" means property that is not residential property on

5072 January 1 of a calendar year but becomes residential property after January 1 of the calendar

5073 year.

5074 (30) "Personal property" includes:

5075 (a) every class of property as defined in Subsection (31) that is the subject of

5076 ownership and is not real estate or an improvement;

5077 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is

5078 separate from the ownership of the underlying land, even if the pipe meets the definition of an

5079 improvement;

5080 (c) bridges and ferries;

- 5081 (d) livestock; and
- 5082 (e) outdoor advertising structures as defined in Section [72-7-502](#).
- 5083 (31) (a) "Property" means property that is subject to assessment and taxation according
- 5084 to its value.
- 5085 (b) "Property" does not include intangible property as defined in this section.
- 5086 (32) "Public utility" means:
- 5087 (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil
- 5088 or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,
- 5089 telephone corporation, sewerage corporation, or heat corporation where the company performs
- 5090 the service for, or delivers the commodity to, the public generally or companies serving the
- 5091 public generally, or in the case of a gas corporation or an electrical corporation, where the gas
- 5092 or electricity is sold or furnished to any member or consumers within the state for domestic,
- 5093 commercial, or industrial use; and
- 5094 (b) the operating property of any entity or person defined under Section [54-2-1](#) except
- 5095 water corporations.
- 5096 (33) (a) Subject to Subsection (33)(b), "qualifying exempt primary residential rental
- 5097 personal property" means household furnishings, furniture, and equipment that:
- 5098 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;
- 5099 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
- 5100 tenant; and
- 5101 (iii) after applying the residential exemption described in Section [59-2-103](#), are exempt
- 5102 from taxation under this chapter in accordance with Subsection [59-2-1115\(2\)](#).
- 5103 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5104 commission may by rule define the term "dwelling unit" for purposes of this Subsection (33)
- 5105 and Subsection (36).
- 5106 (34) "Real estate" or "real property" includes:
- 5107 (a) the possession of, claim to, ownership of, or right to the possession of land;
- 5108 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
- 5109 individuals or corporations growing or being on the lands of this state or the United States, and
- 5110 all rights and privileges appertaining to these; and
- 5111 (c) improvements.

5112 (35) (a) "Relationship with an owner of the property's land surface rights" means a  
5113 relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25%  
5114 shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

5115 (b) For purposes of determining if a relationship described in Subsection 267(b),  
5116 Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership  
5117 rules in Subsection 267(c), Internal Revenue Code.

5118 (36) (a) Subject to Subsection (36)(b), "residential property," for purposes of the  
5119 reductions and adjustments under this chapter, means any property used for residential  
5120 purposes as a primary residence.

5121 (b) Subject to Subsection (36)(c), "residential property":

5122 (i) except as provided in Subsection (36)(b)(ii), includes household furnishings,  
5123 furniture, and equipment if the household furnishings, furniture, and equipment are:

5124 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;  
5125 and

5126 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;  
5127 and

5128 (ii) does not include property used for transient residential use.

5129 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
5130 commission may by rule define the term "dwelling unit" for purposes of Subsection (33) and  
5131 this Subsection (36).

5132 (37) "Split estate mineral rights owner" means a person that:

5133 (a) has a legal right to extract a mineral from property;

5134 (b) does not hold more than a 25% interest in:

5135 (i) the land surface rights of the property where the wellhead is located; or

5136 (ii) an entity with an ownership interest in the land surface rights of the property where  
5137 the wellhead is located;

5138 (c) is not an entity in which the owner of the land surface rights of the property where  
5139 the wellhead is located holds more than a 25% interest; and

5140 (d) does not have a relationship with an owner of the land surface rights of the property  
5141 where the wellhead is located.

5142 (38) (a) "State-assessed commercial vehicle" means:

5143 (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to  
5144 transport passengers, freight, merchandise, or other property for hire; or

5145 (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports  
5146 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

5147 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are  
5148 specified in Subsection (9)(c) as county-assessed commercial vehicles.

5149 (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of  
5150 a base parcel.

5151 (40) "Taxable value" means fair market value less any applicable reduction allowed for  
5152 residential property under Section [59-2-103](#).

5153 (41) "Tax area" means a geographic area created by the overlapping boundaries of one  
5154 or more taxing entities.

5155 (42) "Taxing entity" means any county, city, town, school district, special taxing  
5156 district, local district under Title 17B, Limited Purpose Local Government Entities - Local  
5157 Districts, or other political subdivision of the state with the authority to levy a tax on property.

5158 (43) (a) "Tax roll" means a permanent record of the taxes charged on property, as  
5159 extended on the assessment roll, and may be maintained on the same record or records as the  
5160 assessment roll or may be maintained on a separate record properly indexed to the assessment  
5161 roll.

5162 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

5163 Section 70. Section **59-2-918.6** is amended to read:

5164 **59-2-918.6. New and remaining school district budgets -- Advertisement -- Public**  
5165 **hearing.**

5166 (1) As used in this section, "existing school district," "new school district," and  
5167 "remaining school district" are as defined in Section [~~53A-2-117~~] [53G-3-102](#).

5168 (2) For the first fiscal year in which a new school district created under Section  
5169 [~~53A-2-118.1~~] [53G-3-302](#) assumes responsibility for providing student instruction, the new  
5170 school district and the remaining school district or districts may not impose a property tax  
5171 unless the district imposing the tax:

5172 (a) advertises its intention to do so in accordance with Subsection (3); and

5173 (b) holds a public hearing in accordance with Subsection (4).

5174 (3) The advertisement required by this section:

5175 (a) may be combined with the advertisement described in Section 59-2-919;

5176 (b) shall be at least 1/4 of a page in size and shall meet the type, placement, and  
5177 frequency requirements established under Section 59-2-919; and

5178 (c) shall specify the date, time, and location of the public hearing at which the levy will  
5179 be considered and shall set forth the total amount of the district's proposed property tax levy  
5180 and the tax impact on an average residential and business property located within the taxing  
5181 entity compared to the property tax levy imposed in the prior year by the existing school  
5182 district.

5183 (4) (a) The date, time, and place of public hearings required by this section shall be  
5184 included on the notice provided to property owners pursuant to Section 59-2-919.1.

5185 (b) If a final decision regarding the property tax levy is not made at the public hearing,  
5186 the school district shall announce at the public hearing the scheduled time and place for  
5187 consideration and adoption of the budget and property tax levies.

5188 Section 71. Section 59-2-919 is amended to read:

5189 **59-2-919. Notice and public hearing requirements for certain tax increases --**

5190 **Exceptions.**

5191 (1) As used in this section:

5192 (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue  
5193 generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

5194 (b) "Ad valorem tax revenue" means ad valorem property tax revenue not including  
5195 revenue from:

5196 (i) eligible new growth as defined in Section 59-2-924; or

5197 (ii) personal property that is:

5198 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and

5199 (B) semiconductor manufacturing equipment.

5200 (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year  
5201 that begins on January 1 and ends on December 31.

5202 (d) "County executive calendar year taxing entity" means a calendar year taxing entity  
5203 that operates under the county executive-council form of government described in Section  
5204 17-52-504.

5205 (e) "Current calendar year" means the calendar year immediately preceding the  
5206 calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the  
5207 calendar year taxing entity's certified tax rate.

5208 (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that  
5209 begins on July 1 and ends on June 30.

5210 (g) "Last year's property tax budgeted revenue" does not include revenue received by a  
5211 taxing entity from a debt service levy voted on by the public.

5212 (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax  
5213 rate unless the taxing entity meets:

5214 (a) the requirements of this section that apply to the taxing entity; and

5215 (b) all other requirements as may be required by law.

5216 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar  
5217 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax  
5218 rate if the calendar year taxing entity:

5219 (i) 14 or more days before the date of the regular general election or municipal general  
5220 election held in the current calendar year, states at a public meeting:

5221 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the  
5222 calendar year taxing entity's certified tax rate;

5223 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would  
5224 be generated by the proposed increase in the certified tax rate; and

5225 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity  
5226 based on the proposed increase described in Subsection (3)(a)(i)(B);

5227 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in  
5228 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a  
5229 separate item on the meeting agenda that notifies the public that the calendar year taxing entity  
5230 intends to make the statement described in Subsection (3)(a)(i);

5231 (iii) meets the advertisement requirements of Subsections (6) and (7) before the  
5232 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

5233 (iv) provides notice by mail:

5234 (A) seven or more days before the regular general election or municipal general  
5235 election held in the current calendar year; and

5236 (B) as provided in Subsection (3)(c); and  
5237 (v) conducts a public hearing that is held:  
5238 (A) in accordance with Subsections (8) and (9); and  
5239 (B) in conjunction with the public hearing required by Section [17-36-13](#) or [17B-1-610](#).  
5240 (b) (i) For a county executive calendar year taxing entity, the statement described in  
5241 Subsection (3)(a)(i) shall be made by the:  
5242 (A) county council;  
5243 (B) county executive; or  
5244 (C) both the county council and county executive.  
5245 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the  
5246 county council states a dollar amount of additional ad valorem tax revenue that is greater than  
5247 the amount of additional ad valorem tax revenue previously stated by the county executive in  
5248 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:  
5249 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the  
5250 county executive calendar year taxing entity conducts the public hearing under Subsection  
5251 (3)(a)(v); and  
5252 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the  
5253 county executive calendar year taxing entity conducts the public hearing required by  
5254 Subsection (3)(a)(v).  
5255 (c) The notice described in Subsection (3)(a)(iv):  
5256 (i) shall be mailed to each owner of property:  
5257 (A) within the calendar year taxing entity; and  
5258 (B) listed on the assessment roll;  
5259 (ii) shall be printed on a separate form that:  
5260 (A) is developed by the commission;  
5261 (B) states at the top of the form, in bold upper-case type no smaller than 18 point  
5262 "NOTICE OF PROPOSED TAX INCREASE"; and  
5263 (C) may be mailed with the notice required by Section [59-2-1317](#);  
5264 (iii) shall contain for each property described in Subsection (3)(c)(i):  
5265 (A) the value of the property for the current calendar year;  
5266 (B) the tax on the property for the current calendar year; and

5267 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year  
5268 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax  
5269 rate, the estimated tax on the property;

5270 (iv) shall contain the following statement:

5271 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar  
5272 year]. This notice contains estimates of the tax on your property and the proposed tax increase  
5273 on your property as a result of this tax increase. These estimates are calculated on the basis of  
5274 [insert previous applicable calendar year] data. The actual tax on your property and proposed  
5275 tax increase on your property may vary from this estimate.";

5276 (v) shall state the date, time, and place of the public hearing described in Subsection  
5277 (3)(a)(v); and

5278 (vi) may contain other property tax information approved by the commission.

5279 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall  
5280 calculate the estimated tax on property on the basis of:

5281 (i) data for the current calendar year; and

5282 (ii) the amount of additional ad valorem tax revenue stated in accordance with this  
5283 section.

5284 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate  
5285 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

5286 (a) provides notice by meeting the advertisement requirements of Subsections (6) and  
5287 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year  
5288 taxing entity's annual budget is adopted; and

5289 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the  
5290 fiscal year taxing entity's annual budget is adopted.

5291 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements  
5292 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with  
5293 the requirements of this section.

5294 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or  
5295 (4) if:

5296 (i) Section [~~53A-17a-133~~] [53F-8-301](#) allows the taxing entity to levy a tax rate that  
5297 exceeds that certified tax rate without having to comply with the notice provisions of this

5298 section; or  
5299 (ii) the taxing entity:  
5300 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;  
5301 and  
5302 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax  
5303 revenues.  
5304 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this  
5305 section shall be published:  
5306 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of  
5307 general circulation in the taxing entity;  
5308 (ii) electronically in accordance with Section 45-1-101; and  
5309 (iii) on the Utah Public Notice Website created in Section 63F-1-701.  
5310 (b) The advertisement described in Subsection (6)(a)(i) shall:  
5311 (i) be no less than 1/4 page in size;  
5312 (ii) use type no smaller than 18 point; and  
5313 (iii) be surrounded by a 1/4-inch border.  
5314 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that  
5315 portion of the newspaper where legal notices and classified advertisements appear.  
5316 (d) It is the intent of the Legislature that:  
5317 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a  
5318 newspaper that is published at least one day per week; and  
5319 (ii) the newspaper or combination of newspapers selected:  
5320 (A) be of general interest and readership in the taxing entity; and  
5321 (B) not be of limited subject matter.  
5322 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:  
5323 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks  
5324 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);  
5325 and  
5326 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the  
5327 advertisement, which shall be seven or more days after the day the first advertisement is  
5328 published, for the purpose of hearing comments regarding any proposed increase and to explain

5329 the reasons for the proposed increase.

5330 (ii) The advertisement described in Subsection (6)(a)(ii) shall:

5331 (A) be published two weeks before a taxing entity conducts a public hearing described  
5332 in Subsection (3)(a)(v) or (4)(b); and

5333 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the  
5334 advertisement, which shall be seven or more days after the day the first advertisement is  
5335 published, for the purpose of hearing comments regarding any proposed increase and to explain  
5336 the reasons for the proposed increase.

5337 (f) If a fiscal year taxing entity's public hearing information is published by the county  
5338 auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the  
5339 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run  
5340 the advertisement once during the week before the fiscal year taxing entity conducts a public  
5341 hearing at which the taxing entity's annual budget is discussed.

5342 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an  
5343 advertisement shall be substantially as follows:

5344 "NOTICE OF PROPOSED TAX INCREASE

5345 (NAME OF TAXING ENTITY)

5346 The (name of the taxing entity) is proposing to increase its property tax revenue.

5347 ● The (name of the taxing entity) tax on a (insert the average value of a residence  
5348 in the taxing entity rounded to the nearest thousand dollars) residence would  
5349 increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

5350 ● The (name of the taxing entity) tax on a (insert the value of a business having  
5351 the same value as the average value of a residence in the taxing entity) business  
5352 would increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

5353 ● If the proposed budget is approved, (name of the taxing entity) would increase  
5354 its property tax budgeted revenue by \_\_\_% above last year's property tax  
5355 budgeted revenue excluding eligible new growth.

5356 All concerned citizens are invited to a public hearing on the tax increase.

5357 PUBLIC HEARING

5358 Date/Time: (date) (time)

5359 Location: (name of meeting place and address of meeting place)

5360 To obtain more information regarding the tax increase, citizens may contact the (name  
5361 of the taxing entity) at (phone number of taxing entity)."

5362 (7) The commission:

5363 (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative  
5364 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by  
5365 two or more taxing entities; and

5366 (b) subject to Section 45-1-101, may authorize:

5367 (i) the use of a weekly newspaper:

5368 (A) in a county having both daily and weekly newspapers if the weekly newspaper  
5369 would provide equal or greater notice to the taxpayer; and

5370 (B) if the county petitions the commission for the use of the weekly newspaper; or

5371 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer  
5372 if:

5373 (A) the cost of the advertisement would cause undue hardship;

5374 (B) the direct notice is different and separate from that provided for in Section  
5375 59-2-919.1; and

5376 (C) the taxing entity petitions the commission for the use of a commission approved  
5377 direct notice.

5378 (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county  
5379 legislative body in which the fiscal year taxing entity is located of the date, time, and place of  
5380 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

5381 (B) A county that receives notice from a fiscal year taxing entity under Subsection  
5382 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place  
5383 of the public hearing described in Subsection (8)(a)(i)(A).

5384 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar  
5385 year, notify the county legislative body in which the calendar year taxing entity is located of the  
5386 date, time, and place of the first public hearing at which the calendar year taxing entity's annual  
5387 budget will be discussed.

5388 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the  
5389 public.

5390 (ii) The governing body of a taxing entity conducting a public hearing described in

5391 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an  
5392 opportunity to present oral testimony within reasonable time limits.

5393 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a  
5394 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing  
5395 of another overlapping taxing entity in the same county.

5396 (ii) The taxing entities in which the power to set tax levies is vested in the same  
5397 governing board or authority may consolidate the public hearings described in Subsection  
5398 (3)(a)(v) or (4)(b) into one public hearing.

5399 (d) A county legislative body shall resolve any conflict in public hearing dates and  
5400 times after consultation with each affected taxing entity.

5401 (e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or  
5402 (4)(b) beginning at or after 6 p.m.

5403 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad  
5404 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing  
5405 entity shall announce at that public hearing the scheduled time and place of the next public  
5406 meeting at which the taxing entity will consider budgeting the additional ad valorem tax  
5407 revenue.

5408 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount  
5409 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem  
5410 tax revenue stated at a public meeting under Subsection (3)(a)(i).

5411 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's  
5412 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed  
5413 annual budget.

5414 Section 72. Section **59-2-924** is amended to read:

5415 **59-2-924. Definitions -- Report of valuation of property to county auditor and**  
5416 **commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax**  
5417 **rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the**  
5418 **commission.**

5419 (1) As used in this section:

5420 (a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with  
5421 this chapter.

5422 (ii) "Ad valorem property tax revenue" does not include:  
5423 (A) interest;  
5424 (B) penalties;  
5425 (C) collections from redemptions; or  
5426 (D) revenue received by a taxing entity from personal property that is semiconductor  
5427 manufacturing equipment assessed by a county assessor in accordance with Part 3, County  
5428 Assessment.

5429 (b) (i) "Aggregate taxable value of all property taxed" means:

5430 (A) the aggregate taxable value of all real property a county assessor assesses in  
5431 accordance with Part 3, County Assessment, for the current year;

5432 (B) the aggregate taxable value of all real and personal property the commission  
5433 assesses in accordance with Part 2, Assessment of Property, for the current year; and

5434 (C) the aggregate year end taxable value of all personal property a county assessor  
5435 assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls  
5436 of the taxing entity.

5437 (ii) "Aggregate taxable value of all property taxed" does not include the aggregate year  
5438 end taxable value of personal property that is:

5439 (A) semiconductor manufacturing equipment assessed by a county assessor in  
5440 accordance with Part 3, County Assessment; and

5441 (B) contained on the prior year's tax rolls of the taxing entity.

5442 (c) "Centrally assessed benchmark value" means an amount equal to the highest year  
5443 end taxable value of real and personal property the commission assesses in accordance with  
5444 Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1,  
5445 2015, adjusted for taxable value attributable to:

5446 (i) an annexation to a taxing entity; or

5447 (ii) an incorrect allocation of taxable value of real or personal property the commission  
5448 assesses in accordance with Part 2, Assessment of Property.

5449 (d) (i) "Centrally assessed new growth" means the greater of:

5450 (A) zero; or

5451 (B) the amount calculated by subtracting the centrally assessed benchmark value  
5452 adjusted for prior year end incremental value from the taxable value of real and personal

5453 property the commission assesses in accordance with Part 2, Assessment of Property, for the  
5454 current year, adjusted for current year incremental value.

5455 (ii) "Centrally assessed new growth" does not include a change in value as a result of a  
5456 change in the method of apportioning the value prescribed by the Legislature, a court, or the  
5457 commission in an administrative rule or administrative order.

5458 (e) "Certified tax rate" means a tax rate that will provide the same ad valorem property  
5459 tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

5460 (f) "Eligible new growth" means the greater of:

5461 (i) zero; or

5462 (ii) the sum of:

5463 (A) locally assessed new growth;

5464 (B) centrally assessed new growth; and

5465 (C) project area new growth.

5466 (g) "Incremental value" means the same as that term is defined in Section [17C-1-102](#).

5467 (h) (i) "Locally assessed new growth" means the greater of:

5468 (A) zero; or

5469 (B) the amount calculated by subtracting the year end taxable value of real property the  
5470 county assessor assesses in accordance with Part 3, County Assessment, for the previous year,  
5471 adjusted for prior year end incremental value from the taxable value of real property the county  
5472 assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted  
5473 for current year incremental value.

5474 (ii) "Locally assessed new growth" does not include a change in:

5475 (A) value as a result of factoring in accordance with Section [59-2-704](#), reappraisal, or  
5476 another adjustment;

5477 (B) assessed value based on whether a property is allowed a residential exemption for a  
5478 primary residence under Section [59-2-103](#);

5479 (C) assessed value based on whether a property is assessed under Part 5, Farmland  
5480 Assessment Act; or

5481 (D) assessed value based on whether a property is assessed under Part 17, Urban  
5482 Farming Assessment Act.

5483 (i) "Project area" means the same as that term is defined in Section [17C-1-102](#).

5484 (j) "Project area new growth" means an amount equal to the incremental value that is  
5485 no longer provided to an agency as tax increment.

5486 (2) Before June 1 of each year, the county assessor of each county shall deliver to the  
5487 county auditor and the commission the following statements:

5488 (a) a statement containing the aggregate valuation of all taxable real property a county  
5489 assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

5490 (b) a statement containing the taxable value of all personal property a county assessor  
5491 assesses in accordance with Part 3, County Assessment, from the prior year end values.

5492 (3) The county auditor shall, on or before June 8, transmit to the governing body of  
5493 each taxing entity:

5494 (a) the statements described in Subsections (2)(a) and (b);

5495 (b) an estimate of the revenue from personal property;

5496 (c) the certified tax rate; and

5497 (d) all forms necessary to submit a tax levy request.

5498 (4) (a) Except as otherwise provided in this section, the certified tax rate shall be  
5499 calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the  
5500 prior year by the amount calculated under Subsection (4)(b).

5501 (b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall  
5502 calculate an amount as follows:

5503 (i) calculate for the taxing entity the difference between:

5504 (A) the aggregate taxable value of all property taxed; and

5505 (B) any adjustments for current year incremental value;

5506 (ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount  
5507 determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the  
5508 average of the percentage net change in the value of taxable property for the equalization  
5509 period for the three calendar years immediately preceding the current calendar year;

5510 (iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product  
5511 of:

5512 (A) the amount calculated under Subsection (4)(b)(ii); and

5513 (B) the percentage of property taxes collected for the five calendar years immediately  
5514 preceding the current calendar year; and

5515 (iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount  
5516 determined by subtracting eligible new growth from the amount calculated under Subsection  
5517 (4)(b)(iii).

5518 (5) A certified tax rate for a taxing entity described in this Subsection (5) shall be  
5519 calculated as follows:

5520 (a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax  
5521 rate is zero;

5522 (b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

5523 (i) in a county of the first, second, or third class, the levy imposed for municipal-type  
5524 services under Sections [17-34-1](#) and [17-36-9](#); and

5525 (ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county  
5526 purposes and such other levies imposed solely for the municipal-type services identified in  
5527 Section [17-34-1](#) and Subsection [17-36-3\(22\)](#); and

5528 (c) for debt service voted on by the public, the certified tax rate is the actual levy  
5529 imposed by that section, except that a certified tax rate for the following levies shall be  
5530 calculated in accordance with Section [59-2-913](#) and this section:

5531 (i) a school levy provided for under Section [~~53A-16-113~~] [53F-8-303](#), [~~53A-17a-133~~]  
5532 [53F-8-301](#), or [~~53A-17a-164~~] [53F-8-302](#); and

5533 (ii) a levy to pay for the costs of state legislative mandates or judicial or administrative  
5534 orders under Section [59-2-1602](#).

5535 (6) (a) A judgment levy imposed under Section [59-2-1328](#) or [59-2-1330](#) may be  
5536 imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more  
5537 eligible judgments.

5538 (b) The ad valorem property tax revenue generated by a judgment levy described in  
5539 Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax  
5540 rate.

5541 (7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

5542 (i) the taxable value of real property:

5543 (A) the county assessor assesses in accordance with Part 3, County Assessment; and

5544 (B) contained on the assessment roll;

5545 (ii) the year end taxable value of personal property:

5546 (A) a county assessor assesses in accordance with Part 3, County Assessment; and  
5547 (B) contained on the prior year's assessment roll; and  
5548 (iii) the taxable value of real and personal property the commission assesses in  
5549 accordance with Part 2, Assessment of Property.

5550 (b) For purposes of Subsection (7)(a), taxable value does not include eligible new  
5551 growth.

5552 (8) (a) On or before June 22, a taxing entity shall annually adopt a tentative budget.

5553 (b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall  
5554 notify the county auditor of:

5555 (i) the taxing entity's intent to exceed the certified tax rate; and

5556 (ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

5557 (c) The county auditor shall notify property owners of any intent to levy a tax rate that  
5558 exceeds the certified tax rate in accordance with Sections [59-2-919](#) and [59-2-919.1](#).

5559 (9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through  
5560 electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim  
5561 Committee if:

5562 (i) the amount calculated under Subsection (9)(b) is 10% or more of the year end  
5563 taxable value of the real and personal property the commission assesses in accordance with  
5564 Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental  
5565 value; and

5566 (ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end  
5567 taxable value of the real and personal property of a taxpayer the commission assesses in  
5568 accordance with Part 2, Assessment of Property, for the previous year.

5569 (b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by  
5570 subtracting the taxable value of real and personal property the commission assesses in  
5571 accordance with Part 2, Assessment of Property, for the current year, adjusted for current year  
5572 incremental value, from the year end taxable value of the real and personal property the  
5573 commission assesses in accordance with Part 2, Assessment of Property, for the previous year,  
5574 adjusted for prior year end incremental value.

5575 (c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by  
5576 subtracting the total taxable value of real and personal property of a taxpayer the commission

5577 assesses in accordance with Part 2, Assessment of Property, for the current year, from the total  
 5578 year end taxable value of the real and personal property of a taxpayer the commission assesses  
 5579 in accordance with Part 2, Assessment of Property, for the previous year.

5580 (d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet  
 5581 the requirement under Subsection (9)(a)(ii).

5582 Section 73. Section **59-2-926** is amended to read:

5583 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**

5584 If the state authorizes a levy pursuant to Section [~~53A-17a-135~~] 53F-2-301 that exceeds  
 5585 the certified revenue levy as defined in Section [~~53A-17a-103~~] 53F-2-102 or authorizes a levy  
 5586 pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section  
 5587 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual  
 5588 legislative general session that meets the following requirements:

5589 (1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state  
 5590 authorized a levy that generates revenue in excess of the previous year's ad valorem tax  
 5591 revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue  
 5592 from collections from redemptions, interest, and penalties:

5593 (i) in a newspaper of general circulation in the state; and

5594 (ii) as required in Section 45-1-101.

5595 (b) Except an advertisement published on a website, the advertisement described in  
 5596 Subsection (1)(a):

5597 (i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18  
 5598 point, and surrounded by a 1/4-inch border;

5599 (ii) may not be placed in that portion of the newspaper where legal notices and  
 5600 classified advertisements appear; and

5601 (iii) shall be run once.

5602 (2) The form and content of the notice shall be substantially as follows:

5603 "NOTICE OF TAX INCREASE

5604 The state has budgeted an increase in its property tax revenue from \$ \_\_\_\_\_ to  
 5605 \$ \_\_\_\_\_ or \_\_\_\_%. The increase in property tax revenues will come from the following  
 5606 sources (include all of the following provisions):

5607 (a) \$ \_\_\_\_\_ of the increase will come from (provide an explanation of the cause

5608 of adjustment or increased revenues, such as reappraisals or factoring orders);

5609 (b) \$ \_\_\_\_\_ of the increase will come from natural increases in the value of the  
5610 tax base due to (explain cause of eligible new growth, such as new building activity,  
5611 annexation, etc.);

5612 (c) a home valued at \$100,000 in the state of Utah which based on last year's (levy for  
5613 the basic state-supported school program, levy for the Property Tax Valuation Agency Fund, or  
5614 both) paid \$ \_\_\_\_\_ in property taxes would pay the following:

5615 (i) \$ \_\_\_\_\_ if the state of Utah did not budget an increase in property tax revenue  
5616 exclusive of eligible new growth; and

5617 (ii) \$ \_\_\_\_\_ under the increased property tax revenues exclusive of eligible new  
5618 growth budgeted by the state of Utah."

5619 Section 74. Section **59-2-1101** is amended to read:

5620 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**  
5621 **for certain property -- County legislative body authority to adopt rules or ordinances.**

5622 (1) As used in this section:

5623 (a) "Educational purposes" includes:

5624 (i) the physical or mental teaching, training, or conditioning of competitive athletes by  
5625 a national governing body of sport recognized by the United States Olympic Committee that  
5626 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

5627 (ii) an activity in support of or incidental to the teaching, training, or conditioning  
5628 described in Subsection (1)(a)(i).

5629 (b) "Exclusive use exemption" means a property tax exemption under Subsection  
5630 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or  
5631 educational purposes.

5632 (c) "Government exemption" means a property tax exemption provided under  
5633 Subsection (3)(a)(i), (ii), or (iii).

5634 (d) "Nonprofit entity" includes an entity if the:

5635 (i) entity is treated as a disregarded entity for federal income tax purposes;

5636 (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;

5637 and

5638 (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit

5639 entity.

5640 (e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this  
5641 part.

5642 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if  
5643 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

5644 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional  
5645 tax based upon the length of time that the property was not owned by the claimant if:

5646 (i) the claimant is a federal, state, or political subdivision entity described in

5647 Subsection (3)(a)(i), (ii), or (iii); or

5648 (ii) pursuant to Subsection (3)(a)(iv):

5649 (A) the claimant is a nonprofit entity; and

5650 (B) the property is used exclusively for religious, charitable, or educational purposes.

5651 (c) Subsection (2)(a) does not apply to an exemption under Section [59-2-1104](#).

5652 (3) (a) The following property is exempt from taxation:

5653 (i) property exempt under the laws of the United States;

5654 (ii) property of:

5655 (A) the state;

5656 (B) school districts; and

5657 (C) public libraries;

5658 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

5659 (A) counties;

5660 (B) cities;

5661 (C) towns;

5662 (D) local districts;

5663 (E) special service districts; and

5664 (F) all other political subdivisions of the state;

5665 (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or  
5666 educational purposes;

5667 (v) places of burial not held or used for private or corporate benefit;

5668 (vi) farm machinery and equipment;

5669 (vii) a high tunnel, as defined in Section [10-9a-525](#);

- 5670 (viii) intangible property; and
- 5671 (ix) the ownership interest of an out-of-state public agency, as defined in Section
- 5672 11-13-103:
- 5673 (A) if that ownership interest is in property providing additional project capacity, as
- 5674 defined in Section 11-13-103; and
- 5675 (B) on which a fee in lieu of ad valorem property tax is payable under Section
- 5676 11-13-302.
- 5677 (b) For purposes of a property tax exemption for property of school districts under
- 5678 Subsection (3)(a)(ii)(B), a charter school under [~~Title 53A, Chapter 1a, Part 5, The Utah~~
- 5679 ~~Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools, is considered to be a school
- 5680 district.
- 5681 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
- 5682 a government exemption ceases to qualify for the exemption because of a change in the
- 5683 ownership of the property:
- 5684 (a) the new owner of the property shall pay a proportional tax based upon the period of
- 5685 time:
- 5686 (i) beginning on the day that the new owner acquired the property; and
- 5687 (ii) ending on the last day of the calendar year during which the new owner acquired
- 5688 the property; and
- 5689 (b) the new owner of the property and the person from whom the new owner acquires
- 5690 the property shall notify the county assessor, in writing, of the change in ownership of the
- 5691 property within 30 days from the day that the new owner acquires the property.
- 5692 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
- 5693 (4)(a):
- 5694 (a) is subject to any exclusive use exemption or government exemption that the
- 5695 property is entitled to under the new ownership of the property; and
- 5696 (b) applies only to property that is acquired after December 31, 2005.
- 5697 (6) A county legislative body may adopt rules or ordinances to:
- 5698 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation
- 5699 provided in this part; and
- 5700 (b) designate one or more persons to perform the functions given the county under this

5701 part.

5702 Section 75. Section **59-10-1018** is amended to read:

5703 **59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.**

5704 (1) As used in this section:

5705 (a) "Dependent adult with a disability" means an individual who:

5706 (i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the  
5707 claimant's federal individual income tax return for the taxable year;

5708 (ii) is not the claimant or the claimant's spouse; and

5709 (iii) is:

5710 (A) 18 years of age or older;

5711 (B) eligible for services under Title 62A, Chapter 5, Services for People with  
5712 Disabilities; and

5713 (C) not enrolled in an education program for students with disabilities that is  
5714 authorized under Section ~~[53A-15-301]~~ [53E-7-202](#).

5715 (b) "Dependent child with a disability" means an individual 21 years of age or younger  
5716 who:

5717 (i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the  
5718 claimant's federal individual income tax return for the taxable year;

5719 (ii) is not the claimant or the claimant's spouse; and

5720 (iii) is:

5721 (A) an eligible student with a disability; or

5722 (B) identified under guidelines of the Department of Health as qualified for Early  
5723 Intervention or Infant Development Services.

5724 (c) "Eligible student with a disability" means an individual who is:

5725 (i) diagnosed by a school district representative under rules the State Board of  
5726 Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
5727 Act, as having a disability classified as autism, deafness, preschool developmental delay, dual  
5728 sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic  
5729 impairment, other health impairment, traumatic brain injury, or visual impairment;

5730 (ii) not receiving residential services from the Division of Services for People with  
5731 Disabilities created under Section [62A-5-102](#) or a school established under ~~[Title 53A, Chapter~~

5732 ~~25b, Utah Schools for the Deaf and the Blind]~~ Title 53E, Chapter 8, Utah Schools for the Deaf  
5733 and the Blind; and

5734 (iii) (A) enrolled in an education program for students with disabilities that is  
5735 authorized under Section ~~[53A-15-301]~~ 53E-7-202; or

5736 (B) a recipient of a scholarship awarded under ~~[Title 53A, Chapter 1a, Part 7, Carson~~  
5737 ~~Smith Scholarships for Students with Special Needs Act]~~ Title 53F, Chapter 4, Part 3, Carson  
5738 Smith Scholarship Program.

5739 (d) "Head of household filing status" means a head of household, as defined in Section  
5740 2(b), Internal Revenue Code, who files a single federal individual income tax return for the  
5741 taxable year.

5742 (e) "Joint filing status" means:

5743 (i) a husband and wife who file a single return jointly under this chapter for a taxable  
5744 year; or

5745 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a  
5746 single federal individual income tax return for the taxable year.

5747 (f) "Single filing status" means:

5748 (i) a single individual who files a single federal individual income tax return for the  
5749 taxable year; or

5750 (ii) a married individual who:

5751 (A) does not file a single federal individual income tax return jointly with that married  
5752 individual's spouse for the taxable year; and

5753 (B) files a single federal individual income tax return for the taxable year.

5754 (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through  
5755 (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part  
5756 equal to the sum of:

5757 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal  
5758 individual income tax return for the taxable year, 6% of the amount the claimant deducts as  
5759 allowed as the standard deduction on the claimant's federal individual income tax return for  
5760 that taxable year; or

5761 (ii) for a claimant that itemizes deductions on the claimant's federal individual income  
5762 tax return for the taxable year, the product of:

- 5763 (A) the difference between:
- 5764 (I) the amount the claimant deducts as allowed as an itemized deduction on the  
5765 claimant's federal individual income tax return for that taxable year; and
- 5766 (II) any amount of state or local income taxes the claimant deducts as allowed as an  
5767 itemized deduction on the claimant's federal individual income tax return for that taxable year;  
5768 and
- 5769 (B) 6%; and
- 5770 (b) the product of:
- 5771 (i) 75% of the total amount the claimant deducts as allowed as a personal exemption  
5772 deduction on the claimant's federal individual income tax return for that taxable year, plus an  
5773 additional 75% of the amount the claimant deducts as allowed as a personal exemption  
5774 deduction on the claimant's federal individual income tax return for that taxable year with  
5775 respect to each dependent adult with a disability or dependent child with a disability; and
- 5776 (ii) 6%.
- 5777 (3) A claimant may not carry forward or carry back a tax credit under this section.
- 5778 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar  
5779 by which a claimant's state taxable income exceeds:
- 5780 (a) for a claimant who has a single filing status, \$12,000;
- 5781 (b) for a claimant who has a head of household filing status, \$18,000; or
- 5782 (c) for a claimant who has a joint filing status, \$24,000.
- 5783 (5) (a) For taxable years beginning on or after January 1, 2009, the commission shall  
5784 increase or decrease the following dollar amounts by a percentage equal to the percentage  
5785 difference between the consumer price index for the preceding calendar year and the consumer  
5786 price index for calendar year 2007:
- 5787 (i) the dollar amount listed in Subsection (4)(a); and
- 5788 (ii) the dollar amount listed in Subsection (4)(b).
- 5789 (b) After the commission increases or decreases the dollar amounts listed in Subsection  
5790 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the  
5791 nearest whole dollar.
- 5792 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),  
5793 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that

5794 the dollar amount listed in Subsection (4)(c) is equal to the product of:

5795 (i) the dollar amount listed in Subsection (4)(a); and

5796 (ii) two.

5797 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer

5798 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

5799 Section 76. Section **59-10-1307** is amended to read:

5800 **59-10-1307. Contributions for education.**

5801 (1) Except as provided in Section [59-10-1304](#), a resident or nonresident individual that

5802 files an individual income tax return under this chapter may designate on the resident or

5803 nonresident individual's individual income tax return a contribution as provided in this part to:

5804 (a) the foundation of any school district if that foundation is exempt from federal

5805 income taxation under Section 501(c)(3), Internal Revenue Code; or

5806 (b) a school district described in [~~Title 53A, Chapter 2, School Districts~~] Title 53G,

5807 Chapter 3, School District Creation and Change, if the school district has not established a

5808 foundation.

5809 (2) If a resident or nonresident individual designates an amount as a contribution

5810 under:

5811 (a) Subsection (1)(a), but does not designate a particular school district foundation to

5812 receive the contribution, the contribution shall be made to the State Board of Education to be

5813 distributed to one or more associations of foundations:

5814 (i) if those foundations that are members of the association are established in

5815 accordance with Section [~~53A-4-205~~] [53E-3-403](#); and

5816 (ii) as determined by the State Board of Education; or

5817 (b) Subsection (1)(b), but does not designate a particular school district to receive the

5818 contribution, the contribution shall be made to the State Board of Education.

5819 (3) The commission shall:

5820 (a) determine annually the total amount of contributions designated to each entity

5821 described in Subsection (1) in accordance with this section; and

5822 (b) subject to Subsection (2), credit the amounts described in Subsection (1) to the

5823 entities.

5824 Section 77. Section **59-10-1318** is amended to read:

5825           **59-10-1318. Contribution to Invest More for Education Account.**

5826           (1) Except as provided in Section [59-10-1304](#), a resident or nonresident individual that  
5827 files an individual income tax return under this chapter may designate on the resident or  
5828 nonresident individual's individual income tax return a contribution as provided in this section  
5829 to be:

5830           (a) deposited into the Invest More for Education Account; and

5831           (b) expended as provided in Section [~~53A-16-115~~] [53F-9-205](#).

5832           (2) The commission shall:

5833           (a) determine the total amount of contributions designated in accordance with this  
5834 section for a taxable year; and

5835           (b) credit the amount described in Subsection (2)(a) to the Invest More for Education  
5836 Account created in Section [~~53A-16-115~~] [53F-9-205](#).

5837           Section 78. Section **59-12-102** is amended to read:

5838           **59-12-102. Definitions.**

5839           As used in this chapter:

5840           (1) "800 service" means a telecommunications service that:

5841           (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

5842           (b) is typically marketed:

5843           (i) under the name 800 toll-free calling;

5844           (ii) under the name 855 toll-free calling;

5845           (iii) under the name 866 toll-free calling;

5846           (iv) under the name 877 toll-free calling;

5847           (v) under the name 888 toll-free calling; or

5848           (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

5849 Federal Communications Commission.

5850           (2) (a) "900 service" means an inbound toll telecommunications service that:

5851           (i) a subscriber purchases;

5852           (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to  
5853 the subscriber's:

5854           (A) prerecorded announcement; or

5855           (B) live service; and

- 5856 (iii) is typically marketed:
- 5857 (A) under the name 900 service; or
- 5858 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 5859 Communications Commission.
- 5860 (b) "900 service" does not include a charge for:
- 5861 (i) a collection service a seller of a telecommunications service provides to a
- 5862 subscriber; or
- 5863 (ii) the following a subscriber sells to the subscriber's customer:
- 5864 (A) a product; or
- 5865 (B) a service.
- 5866 (3) (a) "Admission or user fees" includes season passes.
- 5867 (b) "Admission or user fees" does not include annual membership dues to private
- 5868 organizations.
- 5869 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 5870 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 5871 Agreement after November 12, 2002.
- 5872 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 5873 (a) listed under Subsection (6); and
- 5874 (b) that are imposed within a local taxing jurisdiction.
- 5875 (6) "Agreement sales and use tax" means a tax imposed under:
- 5876 (a) Subsection [59-12-103\(2\)\(a\)\(i\)\(A\)](#);
- 5877 (b) Subsection [59-12-103\(2\)\(b\)\(i\)](#);
- 5878 (c) Subsection [59-12-103\(2\)\(c\)\(i\)](#);
- 5879 (d) Subsection [59-12-103\(2\)\(d\)\(i\)\(A\)\(I\)](#);
- 5880 (e) Section [59-12-204](#);
- 5881 (f) Section [59-12-401](#);
- 5882 (g) Section [59-12-402](#);
- 5883 (h) Section [59-12-402.1](#);
- 5884 (i) Section [59-12-703](#);
- 5885 (j) Section [59-12-802](#);
- 5886 (k) Section [59-12-804](#);

- 5887 (l) Section 59-12-1102;
- 5888 (m) Section 59-12-1302;
- 5889 (n) Section 59-12-1402;
- 5890 (o) Section 59-12-1802;
- 5891 (p) Section 59-12-2003;
- 5892 (q) Section 59-12-2103;
- 5893 (r) Section 59-12-2213;
- 5894 (s) Section 59-12-2214;
- 5895 (t) Section 59-12-2215;
- 5896 (u) Section 59-12-2216;
- 5897 (v) Section 59-12-2217;
- 5898 (w) Section 59-12-2218; or
- 5899 (x) Section 59-12-2219.
- 5900 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 5901 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 5902 (a) except for:
- 5903 (i) an airline as defined in Section 59-2-102; or
- 5904 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 5905 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 5906 state, of an airline; and
- 5907 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 5908 whether the business entity performs the following in this state:
- 5909 (i) check, diagnose, overhaul, and repair:
- 5910 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 5911 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 5912 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 5913 engine;
- 5914 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 5915 aircraft:
- 5916 (A) an inspection;
- 5917 (B) a repair, including a structural repair or modification;

- 5918 (C) changing landing gear; and
- 5919 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 5920 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 5921 completely apply new paint to the fixed wing turbine powered aircraft; and
- 5922 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 5923 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 5924 authority that certifies the fixed wing turbine powered aircraft.
- 5925 (9) "Alcoholic beverage" means a beverage that:
- 5926 (a) is suitable for human consumption; and
- 5927 (b) contains .5% or more alcohol by volume.
- 5928 (10) "Alternative energy" means:
- 5929 (a) biomass energy;
- 5930 (b) geothermal energy;
- 5931 (c) hydroelectric energy;
- 5932 (d) solar energy;
- 5933 (e) wind energy; or
- 5934 (f) energy that is derived from:
- 5935 (i) coal-to-liquids;
- 5936 (ii) nuclear fuel;
- 5937 (iii) oil-impregnated diatomaceous earth;
- 5938 (iv) oil sands;
- 5939 (v) oil shale;
- 5940 (vi) petroleum coke; or
- 5941 (vii) waste heat from:
- 5942 (A) an industrial facility; or
- 5943 (B) a power station in which an electric generator is driven through a process in which
- 5944 water is heated, turns into steam, and spins a steam turbine.
- 5945 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 5946 facility" means a facility that:
- 5947 (i) uses alternative energy to produce electricity; and
- 5948 (ii) has a production capacity of two megawatts or greater.

5949 (b) A facility is an alternative energy electricity production facility regardless of  
5950 whether the facility is:

5951 (i) connected to an electric grid; or

5952 (ii) located on the premises of an electricity consumer.

5953 (12) (a) "Ancillary service" means a service associated with, or incidental to, the  
5954 provision of telecommunications service.

5955 (b) "Ancillary service" includes:

5956 (i) a conference bridging service;

5957 (ii) a detailed communications billing service;

5958 (iii) directory assistance;

5959 (iv) a vertical service; or

5960 (v) a voice mail service.

5961 (13) "Area agency on aging" means the same as that term is defined in Section  
5962 [62A-3-101](#).

5963 (14) "Assisted amusement device" means an amusement device, skill device, or ride  
5964 device that is started and stopped by an individual:

5965 (a) who is not the purchaser or renter of the right to use or operate the amusement  
5966 device, skill device, or ride device; and

5967 (b) at the direction of the seller of the right to use the amusement device, skill device,  
5968 or ride device.

5969 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or  
5970 washing of tangible personal property if the cleaning or washing labor is primarily performed  
5971 by an individual:

5972 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
5973 property; and

5974 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
5975 property.

5976 (16) "Authorized carrier" means:

5977 (a) in the case of vehicles operated over public highways, the holder of credentials  
5978 indicating that the vehicle is or will be operated pursuant to both the International Registration  
5979 Plan and the International Fuel Tax Agreement;

5980 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
5981 certificate or air carrier's operating certificate; or

5982 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
5983 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
5984 stock in more than one state.

5985 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the  
5986 following that is used as the primary source of energy to produce fuel or electricity:

5987 (i) material from a plant or tree; or

5988 (ii) other organic matter that is available on a renewable basis, including:

5989 (A) slash and brush from forests and woodlands;

5990 (B) animal waste;

5991 (C) waste vegetable oil;

5992 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
5993 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
5994 thermal conversion process;

5995 (E) aquatic plants; and

5996 (F) agricultural products.

5997 (b) "Biomass energy" does not include:

5998 (i) black liquor; or

5999 (ii) treated woods.

6000 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
6001 property, products, or services if the tangible personal property, products, or services are:

6002 (i) distinct and identifiable; and

6003 (ii) sold for one nonitemized price.

6004 (b) "Bundled transaction" does not include:

6005 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
6006 the basis of the selection by the purchaser of the items of tangible personal property included in  
6007 the transaction;

6008 (ii) the sale of real property;

6009 (iii) the sale of services to real property;

6010 (iv) the retail sale of tangible personal property and a service if:

- 6011 (A) the tangible personal property:
- 6012 (I) is essential to the use of the service; and
- 6013 (II) is provided exclusively in connection with the service; and
- 6014 (B) the service is the true object of the transaction;
- 6015 (v) the retail sale of two services if:
- 6016 (A) one service is provided that is essential to the use or receipt of a second service;
- 6017 (B) the first service is provided exclusively in connection with the second service; and
- 6018 (C) the second service is the true object of the transaction;
- 6019 (vi) a transaction that includes tangible personal property or a product subject to
- 6020 taxation under this chapter and tangible personal property or a product that is not subject to
- 6021 taxation under this chapter if the:
- 6022 (A) seller's purchase price of the tangible personal property or product subject to
- 6023 taxation under this chapter is de minimis; or
- 6024 (B) seller's sales price of the tangible personal property or product subject to taxation
- 6025 under this chapter is de minimis; and
- 6026 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 6027 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 6028 (A) that retail sale includes:
- 6029 (I) food and food ingredients;
- 6030 (II) a drug;
- 6031 (III) durable medical equipment;
- 6032 (IV) mobility enhancing equipment;
- 6033 (V) an over-the-counter drug;
- 6034 (VI) a prosthetic device; or
- 6035 (VII) a medical supply; and
- 6036 (B) subject to Subsection (18)(f):
- 6037 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 6038 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 6039 (II) the seller's sales price of the tangible personal property subject to taxation under
- 6040 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 6041 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a

6042 service that is distinct and identifiable does not include:

6043 (A) packaging that:

6044 (I) accompanies the sale of the tangible personal property, product, or service; and

6045 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
6046 service;

6047 (B) tangible personal property, a product, or a service provided free of charge with the  
6048 purchase of another item of tangible personal property, a product, or a service; or

6049 (C) an item of tangible personal property, a product, or a service included in the  
6050 definition of "purchase price."

6051 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a  
6052 product, or a service is provided free of charge with the purchase of another item of tangible  
6053 personal property, a product, or a service if the sales price of the purchased item of tangible  
6054 personal property, product, or service does not vary depending on the inclusion of the tangible  
6055 personal property, product, or service provided free of charge.

6056 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price  
6057 does not include a price that is separately identified by tangible personal property, product, or  
6058 service on the following, regardless of whether the following is in paper format or electronic  
6059 format:

6060 (A) a binding sales document; or

6061 (B) another supporting sales-related document that is available to a purchaser.

6062 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another  
6063 supporting sales-related document that is available to a purchaser includes:

6064 (A) a bill of sale;

6065 (B) a contract;

6066 (C) an invoice;

6067 (D) a lease agreement;

6068 (E) a periodic notice of rates and services;

6069 (F) a price list;

6070 (G) a rate card;

6071 (H) a receipt; or

6072 (I) a service agreement.

6073 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal  
6074 property or a product subject to taxation under this chapter is de minimis if:

6075 (A) the seller's purchase price of the tangible personal property or product is 10% or  
6076 less of the seller's total purchase price of the bundled transaction; or

6077 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
6078 the seller's total sales price of the bundled transaction.

6079 (ii) For purposes of Subsection (18)(b)(vi), a seller:

6080 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
6081 purchase price or sales price of the tangible personal property or product subject to taxation  
6082 under this chapter is de minimis; and

6083 (B) may not use a combination of the seller's purchase price and the seller's sales price  
6084 to determine if the purchase price or sales price of the tangible personal property or product  
6085 subject to taxation under this chapter is de minimis.

6086 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service  
6087 contract to determine if the sales price of tangible personal property or a product is de minimis.

6088 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of  
6089 the seller's purchase price and the seller's sales price to determine if tangible personal property  
6090 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
6091 price of that retail sale.

6092 (19) "Certified automated system" means software certified by the governing board of  
6093 the agreement that:

6094 (a) calculates the agreement sales and use tax imposed within a local taxing  
6095 jurisdiction:

6096 (i) on a transaction; and

6097 (ii) in the states that are members of the agreement;

6098 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
6099 member of the agreement; and

6100 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

6101 (20) "Certified service provider" means an agent certified:

6102 (a) by the governing board of the agreement; and

6103 (b) to perform all of a seller's sales and use tax functions for an agreement sales and

6104 use tax other than the seller's obligation under Section [59-12-124](#) to remit a tax on the seller's  
6105 own purchases.

6106 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel  
6107 suitable for general use.

6108 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6109 commission shall make rules:

6110 (i) listing the items that constitute "clothing"; and

6111 (ii) that are consistent with the list of items that constitute "clothing" under the  
6112 agreement.

6113 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

6114 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
6115 fuels that does not constitute industrial use under Subsection (56) or residential use under  
6116 Subsection (106).

6117 (24) (a) "Common carrier" means a person engaged in or transacting the business of  
6118 transporting passengers, freight, merchandise, or other property for hire within this state.

6119 (b) (i) "Common carrier" does not include a person who, at the time the person is  
6120 traveling to or from that person's place of employment, transports a passenger to or from the  
6121 passenger's place of employment.

6122 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,  
6123 Utah Administrative Rulemaking Act, the commission may make rules defining what  
6124 constitutes a person's place of employment.

6125 (c) "Common carrier" does not include a person that provides transportation network  
6126 services, as defined in Section [13-51-102](#).

6127 (25) "Component part" includes:

6128 (a) poultry, dairy, and other livestock feed, and their components;

6129 (b) baling ties and twine used in the baling of hay and straw;

6130 (c) fuel used for providing temperature control of orchards and commercial  
6131 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
6132 off-highway type farm machinery; and

6133 (d) feed, seeds, and seedlings.

6134 (26) "Computer" means an electronic device that accepts information:

- 6135 (a) (i) in digital form; or  
6136 (ii) in a form similar to digital form; and  
6137 (b) manipulates that information for a result based on a sequence of instructions.  
6138 (27) "Computer software" means a set of coded instructions designed to cause:  
6139 (a) a computer to perform a task; or  
6140 (b) automatic data processing equipment to perform a task.  
6141 (28) "Computer software maintenance contract" means a contract that obligates a seller  
6142 of computer software to provide a customer with:  
6143 (a) future updates or upgrades to computer software;  
6144 (b) support services with respect to computer software; or  
6145 (c) a combination of Subsections (28)(a) and (b).  
6146 (29) (a) "Conference bridging service" means an ancillary service that links two or  
6147 more participants of an audio conference call or video conference call.  
6148 (b) "Conference bridging service" may include providing a telephone number as part of  
6149 the ancillary service described in Subsection (29)(a).  
6150 (c) "Conference bridging service" does not include a telecommunications service used  
6151 to reach the ancillary service described in Subsection (29)(a).  
6152 (30) "Construction materials" means any tangible personal property that will be  
6153 converted into real property.  
6154 (31) "Delivered electronically" means delivered to a purchaser by means other than  
6155 tangible storage media.  
6156 (32) (a) "Delivery charge" means a charge:  
6157 (i) by a seller of:  
6158 (A) tangible personal property;  
6159 (B) a product transferred electronically; or  
6160 (C) services; and  
6161 (ii) for preparation and delivery of the tangible personal property, product transferred  
6162 electronically, or services described in Subsection (32)(a)(i) to a location designated by the  
6163 purchaser.  
6164 (b) "Delivery charge" includes a charge for the following:  
6165 (i) transportation;

- 6166 (ii) shipping;
- 6167 (iii) postage;
- 6168 (iv) handling;
- 6169 (v) crating; or
- 6170 (vi) packing.
- 6171 (33) "Detailed telecommunications billing service" means an ancillary service of
- 6172 separately stating information pertaining to individual calls on a customer's billing statement.
- 6173 (34) "Dietary supplement" means a product, other than tobacco, that:
- 6174 (a) is intended to supplement the diet;
- 6175 (b) contains one or more of the following dietary ingredients:
- 6176 (i) a vitamin;
- 6177 (ii) a mineral;
- 6178 (iii) an herb or other botanical;
- 6179 (iv) an amino acid;
- 6180 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 6181 dietary intake; or
- 6182 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 6183 described in Subsections (34)(b)(i) through (v);
- 6184 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 6185 (A) tablet form;
- 6186 (B) capsule form;
- 6187 (C) powder form;
- 6188 (D) softgel form;
- 6189 (E) gelcap form; or
- 6190 (F) liquid form; or
- 6191 (ii) if the product is not intended for ingestion in a form described in Subsections
- 6192 (34)(c)(i)(A) through (F), is not represented:
- 6193 (A) as conventional food; and
- 6194 (B) for use as a sole item of:
- 6195 (I) a meal; or
- 6196 (II) the diet; and

- 6197 (d) is required to be labeled as a dietary supplement:
- 6198 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 6199 (ii) as required by 21 C.F.R. Sec. 101.36.
- 6200 (35) "Digital audio-visual work" means a series of related images which, when shown
- 6201 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 6202 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 6203 musical, spoken, or other sounds.
- 6204 (b) "Digital audio work" includes a ringtone.
- 6205 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 6206 sense as a book.
- 6207 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 6208 mail or other delivery service:
- 6209 (i) to:
- 6210 (A) a mass audience; or
- 6211 (B) addressees on a mailing list provided:
- 6212 (I) by a purchaser of the mailing list; or
- 6213 (II) at the discretion of the purchaser of the mailing list; and
- 6214 (ii) if the cost of the printed material is not billed directly to the recipients.
- 6215 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 6216 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 6217 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 6218 single address.
- 6219 (39) "Directory assistance" means an ancillary service of providing:
- 6220 (a) address information; or
- 6221 (b) telephone number information.
- 6222 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 6223 or supplies that:
- 6224 (i) cannot withstand repeated use; and
- 6225 (ii) are purchased by, for, or on behalf of a person other than:
- 6226 (A) a health care facility as defined in Section [26-21-2](#);
- 6227 (B) a health care provider as defined in Section [78B-3-403](#);

- 6228 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 6229 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 6230 (b) "Disposable home medical equipment or supplies" does not include:
- 6231 (i) a drug;
- 6232 (ii) durable medical equipment;
- 6233 (iii) a hearing aid;
- 6234 (iv) a hearing aid accessory;
- 6235 (v) mobility enhancing equipment; or
- 6236 (vi) tangible personal property used to correct impaired vision, including:
- 6237 (A) eyeglasses; or
- 6238 (B) contact lenses.
- 6239 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6240 commission may by rule define what constitutes medical equipment or supplies.
- 6241 (41) "Drilling equipment manufacturer" means a facility:
- 6242 (a) located in the state;
- 6243 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 6244 consist of manufacturing component parts of drilling equipment;
- 6245 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 6246 manufacturing process; and
- 6247 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 6248 manufacturing process.
- 6249 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 6250 compound, substance, or preparation that is:
- 6251 (i) recognized in:
- 6252 (A) the official United States Pharmacopoeia;
- 6253 (B) the official Homeopathic Pharmacopoeia of the United States;
- 6254 (C) the official National Formulary; or
- 6255 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 6256 (ii) intended for use in the:
- 6257 (A) diagnosis of disease;
- 6258 (B) cure of disease;

- 6259 (C) mitigation of disease;
- 6260 (D) treatment of disease; or
- 6261 (E) prevention of disease; or
- 6262 (iii) intended to affect:
- 6263 (A) the structure of the body; or
- 6264 (B) any function of the body.
- 6265 (b) "Drug" does not include:
- 6266 (i) food and food ingredients;
- 6267 (ii) a dietary supplement;
- 6268 (iii) an alcoholic beverage; or
- 6269 (iv) a prosthetic device.
- 6270 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 6271 equipment that:
- 6272 (i) can withstand repeated use;
- 6273 (ii) is primarily and customarily used to serve a medical purpose;
- 6274 (iii) generally is not useful to a person in the absence of illness or injury; and
- 6275 (iv) is not worn in or on the body.
- 6276 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 6277 equipment described in Subsection (43)(a).
- 6278 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 6279 (44) "Electronic" means:
- 6280 (a) relating to technology; and
- 6281 (b) having:
- 6282 (i) electrical capabilities;
- 6283 (ii) digital capabilities;
- 6284 (iii) magnetic capabilities;
- 6285 (iv) wireless capabilities;
- 6286 (v) optical capabilities;
- 6287 (vi) electromagnetic capabilities; or
- 6288 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 6289 (45) "Electronic financial payment service" means an establishment:

- 6290 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and  
6291 Clearinghouse Activities, of the 2012 North American Industry Classification System of the  
6292 federal Executive Office of the President, Office of Management and Budget; and  
6293 (b) that performs electronic financial payment services.
- 6294 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 6295 (47) "Fixed guideway" means a public transit facility that uses and occupies:  
6296 (a) rail for the use of public transit; or  
6297 (b) a separate right-of-way for the use of public transit.
- 6298 (48) "Fixed wing turbine powered aircraft" means an aircraft that:  
6299 (a) is powered by turbine engines;  
6300 (b) operates on jet fuel; and  
6301 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 6302 (49) "Fixed wireless service" means a telecommunications service that provides radio  
6303 communication between fixed points.
- 6304 (50) (a) "Food and food ingredients" means substances:  
6305 (i) regardless of whether the substances are in:  
6306 (A) liquid form;  
6307 (B) concentrated form;  
6308 (C) solid form;  
6309 (D) frozen form;  
6310 (E) dried form; or  
6311 (F) dehydrated form; and  
6312 (ii) that are:  
6313 (A) sold for:  
6314 (I) ingestion by humans; or  
6315 (II) chewing by humans; and  
6316 (B) consumed for the substance's:  
6317 (I) taste; or  
6318 (II) nutritional value.
- 6319 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).  
6320 (c) "Food and food ingredients" does not include:

- 6321 (i) an alcoholic beverage;
- 6322 (ii) tobacco; or
- 6323 (iii) prepared food.
- 6324 (51) (a) "Fundraising sales" means sales:
- 6325 (i) (A) made by a school; or
- 6326 (B) made by a school student;
- 6327 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 6328 materials, or provide transportation; and
- 6329 (iii) that are part of an officially sanctioned school activity.
- 6330 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 6331 means a school activity:
- 6332 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 6333 district governing the authorization and supervision of fundraising activities;
- 6334 (ii) that does not directly or indirectly compensate an individual teacher or other
- 6335 educational personnel by direct payment, commissions, or payment in kind; and
- 6336 (iii) the net or gross revenues from which are deposited in a dedicated account
- 6337 controlled by the school or school district.
- 6338 (52) "Geothermal energy" means energy contained in heat that continuously flows
- 6339 outward from the earth that is used as the sole source of energy to produce electricity.
- 6340 (53) "Governing board of the agreement" means the governing board of the agreement
- 6341 that is:
- 6342 (a) authorized to administer the agreement; and
- 6343 (b) established in accordance with the agreement.
- 6344 (54) (a) For purposes of Subsection [59-12-104](#)(41), "governmental entity" means:
- 6345 (i) the executive branch of the state, including all departments, institutions, boards,
- 6346 divisions, bureaus, offices, commissions, and committees;
- 6347 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 6348 Office of the Court Administrator, and similar administrative units in the judicial branch;
- 6349 (iii) the legislative branch of the state, including the House of Representatives, the
- 6350 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 6351 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

6352 Analyst;

6353 (iv) the National Guard;

6354 (v) an independent entity as defined in Section [63E-1-102](#); or

6355 (vi) a political subdivision as defined in Section [17B-1-102](#).

6356 (b) "Governmental entity" does not include the state systems of public and higher

6357 education, including:

6358 (i) a school;

6359 (ii) the State Board of Education;

6360 (iii) the State Board of Regents; or

6361 (iv) an institution of higher education described in Section [53B-1-102](#).

6362 (55) "Hydroelectric energy" means water used as the sole source of energy to produce

6363 electricity.

6364 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

6365 other fuels:

6366 (a) in mining or extraction of minerals;

6367 (b) in agricultural operations to produce an agricultural product up to the time of

6368 harvest or placing the agricultural product into a storage facility, including:

6369 (i) commercial greenhouses;

6370 (ii) irrigation pumps;

6371 (iii) farm machinery;

6372 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered

6373 under Title 41, Chapter 1a, Part 2, Registration; and

6374 (v) other farming activities;

6375 (c) in manufacturing tangible personal property at an establishment described in SIC

6376 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

6377 Executive Office of the President, Office of Management and Budget;

6378 (d) by a scrap recycler if:

6379 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

6380 one or more of the following items into prepared grades of processed materials for use in new

6381 products:

6382 (A) iron;

- 6383 (B) steel;
- 6384 (C) nonferrous metal;
- 6385 (D) paper;
- 6386 (E) glass;
- 6387 (F) plastic;
- 6388 (G) textile; or
- 6389 (H) rubber; and
- 6390 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 6391 nonrecycled materials; or
- 6392 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 6393 cogeneration facility as defined in Section 54-2-1.
- 6394 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 6395 for installing:
- 6396 (i) tangible personal property; or
- 6397 (ii) a product transferred electronically.
- 6398 (b) "Installation charge" does not include a charge for:
- 6399 (i) repairs or renovations of:
- 6400 (A) tangible personal property; or
- 6401 (B) a product transferred electronically; or
- 6402 (ii) attaching tangible personal property or a product transferred electronically:
- 6403 (A) to other tangible personal property; and
- 6404 (B) as part of a manufacturing or fabrication process.
- 6405 (58) "Institution of higher education" means an institution of higher education listed in
- 6406 Section 53B-2-101.
- 6407 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 6408 personal property or a product transferred electronically for:
- 6409 (i) (A) a fixed term; or
- 6410 (B) an indeterminate term; and
- 6411 (ii) consideration.
- 6412 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 6413 amount of consideration may be increased or decreased by reference to the amount realized

6414 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
6415 Code.

6416 (c) "Lease" or "rental" does not include:

6417 (i) a transfer of possession or control of property under a security agreement or  
6418 deferred payment plan that requires the transfer of title upon completion of the required  
6419 payments;

6420 (ii) a transfer of possession or control of property under an agreement that requires the  
6421 transfer of title:

6422 (A) upon completion of required payments; and

6423 (B) if the payment of an option price does not exceed the greater of:

6424 (I) \$100; or

6425 (II) 1% of the total required payments; or

6426 (iii) providing tangible personal property along with an operator for a fixed period of  
6427 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
6428 designed.

6429 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to  
6430 perform as designed if the operator's duties exceed the:

6431 (i) set-up of tangible personal property;

6432 (ii) maintenance of tangible personal property; or

6433 (iii) inspection of tangible personal property.

6434 (60) "Life science establishment" means an establishment in this state that is classified  
6435 under the following NAICS codes of the 2007 North American Industry Classification System  
6436 of the federal Executive Office of the President, Office of Management and Budget:

6437 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

6438 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus  
6439 Manufacturing; or

6440 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

6441 (61) "Life science research and development facility" means a facility owned, leased,  
6442 or rented by a life science establishment if research and development is performed in 51% or  
6443 more of the total area of the facility.

6444 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media

- 6445 if the tangible storage media is not physically transferred to the purchaser.
- 6446 (63) "Local taxing jurisdiction" means a:
- 6447 (a) county that is authorized to impose an agreement sales and use tax;
- 6448 (b) city that is authorized to impose an agreement sales and use tax; or
- 6449 (c) town that is authorized to impose an agreement sales and use tax.
- 6450 (64) "Manufactured home" means the same as that term is defined in Section
- 6451 [15A-1-302](#).
- 6452 (65) "Manufacturing facility" means:
- 6453 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 6454 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 6455 Management and Budget;
- 6456 (b) a scrap recycler if:
- 6457 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 6458 one or more of the following items into prepared grades of processed materials for use in new
- 6459 products:
- 6460 (A) iron;
- 6461 (B) steel;
- 6462 (C) nonferrous metal;
- 6463 (D) paper;
- 6464 (E) glass;
- 6465 (F) plastic;
- 6466 (G) textile; or
- 6467 (H) rubber; and
- 6468 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
- 6469 nonrecycled materials; or
- 6470 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
- 6471 placed in service on or after May 1, 2006.
- 6472 (66) "Member of the immediate family of the producer" means a person who is related
- 6473 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 6474 (a) child or stepchild, regardless of whether the child or stepchild is:
- 6475 (i) an adopted child or adopted stepchild; or

- 6476 (ii) a foster child or foster stepchild;
- 6477 (b) grandchild or stepgrandchild;
- 6478 (c) grandparent or stepgrandparent;
- 6479 (d) nephew or stepnephew;
- 6480 (e) niece or stepniece;
- 6481 (f) parent or stepparent;
- 6482 (g) sibling or stepsibling;
- 6483 (h) spouse;
- 6484 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

6485 or

6486 (j) person similar to a person described in Subsections (66)(a) through (i) as  
6487 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah  
6488 Administrative Rulemaking Act.

6489 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

6490 (68) "Mobile telecommunications service" is as defined in the Mobile  
6491 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

6492 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of  
6493 the technology used, if:

- 6494 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 6495 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 6496 (iii) the origination point described in Subsection (69)(a)(i) and the termination point  
6497 described in Subsection (69)(a)(ii) are not fixed.

6498 (b) "Mobile wireless service" includes a telecommunications service that is provided  
6499 by a commercial mobile radio service provider.

6500 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6501 commission may by rule define "commercial mobile radio service provider."

6502 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"  
6503 means equipment that is:

- 6504 (i) primarily and customarily used to provide or increase the ability to move from one  
6505 place to another;
- 6506 (ii) appropriate for use in a:

- 6507 (A) home; or
- 6508 (B) motor vehicle; and
- 6509 (iii) not generally used by persons with normal mobility.
- 6510 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 6511 the equipment described in Subsection (70)(a).
- 6512 (c) "Mobility enhancing equipment" does not include:
- 6513 (i) a motor vehicle;
- 6514 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 6515 vehicle manufacturer;
- 6516 (iii) durable medical equipment; or
- 6517 (iv) a prosthetic device.
- 6518 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
- 6519 certified service provider as the seller's agent to perform all of the seller's sales and use tax
- 6520 functions for agreement sales and use taxes other than the seller's obligation under Section
- 6521 [59-12-124](#) to remit a tax on the seller's own purchases.
- 6522 (72) "Model 2 seller" means a seller registered under the agreement that:
- 6523 (a) except as provided in Subsection (72)(b), has selected a certified automated system
- 6524 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 6525 (b) retains responsibility for remitting all of the sales tax:
- 6526 (i) collected by the seller; and
- 6527 (ii) to the appropriate local taxing jurisdiction.
- 6528 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
- 6529 the agreement that has:
- 6530 (i) sales in at least five states that are members of the agreement;
- 6531 (ii) total annual sales revenues of at least \$500,000,000;
- 6532 (iii) a proprietary system that calculates the amount of tax:
- 6533 (A) for an agreement sales and use tax; and
- 6534 (B) due to each local taxing jurisdiction; and
- 6535 (iv) entered into a performance agreement with the governing board of the agreement.
- 6536 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
- 6537 sellers using the same proprietary system.

6538 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a  
6539 model 1 seller, model 2 seller, or model 3 seller.

6540 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

6541 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

6542 (77) "Oil sands" means impregnated bituminous sands that:

6543 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with  
6544 other hydrocarbons, or otherwise treated;

6545 (b) yield mixtures of liquid hydrocarbon; and

6546 (c) require further processing other than mechanical blending before becoming finished  
6547 petroleum products.

6548 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen  
6549 material that yields petroleum upon heating and distillation.

6550 (79) "Optional computer software maintenance contract" means a computer software  
6551 maintenance contract that a customer is not obligated to purchase as a condition to the retail  
6552 sale of computer software.

6553 (80) (a) "Other fuels" means products that burn independently to produce heat or  
6554 energy.

6555 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
6556 personal property.

6557 (81) (a) "Paging service" means a telecommunications service that provides  
6558 transmission of a coded radio signal for the purpose of activating a specific pager.

6559 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal  
6560 includes a transmission by message or sound.

6561 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

6562 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

6563 (84) (a) "Permanently attached to real property" means that for tangible personal  
6564 property attached to real property:

6565 (i) the attachment of the tangible personal property to the real property:

6566 (A) is essential to the use of the tangible personal property; and

6567 (B) suggests that the tangible personal property will remain attached to the real  
6568 property in the same place over the useful life of the tangible personal property; or

6569 (ii) if the tangible personal property is detached from the real property, the detachment  
6570 would:

6571 (A) cause substantial damage to the tangible personal property; or

6572 (B) require substantial alteration or repair of the real property to which the tangible  
6573 personal property is attached.

6574 (b) "Permanently attached to real property" includes:

6575 (i) the attachment of an accessory to the tangible personal property if the accessory is:

6576 (A) essential to the operation of the tangible personal property; and

6577 (B) attached only to facilitate the operation of the tangible personal property;

6578 (ii) a temporary detachment of tangible personal property from real property for a  
6579 repair or renovation if the repair or renovation is performed where the tangible personal  
6580 property and real property are located; or

6581 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
6582 Subsection (84)(c)(iii) or (iv).

6583 (c) "Permanently attached to real property" does not include:

6584 (i) the attachment of portable or movable tangible personal property to real property if  
6585 that portable or movable tangible personal property is attached to real property only for:

6586 (A) convenience;

6587 (B) stability; or

6588 (C) for an obvious temporary purpose;

6589 (ii) the detachment of tangible personal property from real property except for the  
6590 detachment described in Subsection (84)(b)(ii);

6591 (iii) an attachment of the following tangible personal property to real property if the  
6592 attachment to real property is only through a line that supplies water, electricity, gas,  
6593 telecommunications, cable, or supplies a similar item as determined by the commission by rule  
6594 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

6595 (A) a computer;

6596 (B) a telephone;

6597 (C) a television; or

6598 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as  
6599 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

6600 Administrative Rulemaking Act; or  
6601 (iv) an item listed in Subsection (125)(c).  
6602 (85) "Person" includes any individual, firm, partnership, joint venture, association,  
6603 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
6604 municipality, district, or other local governmental entity of the state, or any group or  
6605 combination acting as a unit.  
6606 (86) "Place of primary use":  
6607 (a) for telecommunications service other than mobile telecommunications service,  
6608 means the street address representative of where the customer's use of the telecommunications  
6609 service primarily occurs, which shall be:  
6610 (i) the residential street address of the customer; or  
6611 (ii) the primary business street address of the customer; or  
6612 (b) for mobile telecommunications service, is as defined in the Mobile  
6613 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.  
6614 (87) (a) "Postpaid calling service" means a telecommunications service a person  
6615 obtains by making a payment on a call-by-call basis:  
6616 (i) through the use of a:  
6617 (A) bank card;  
6618 (B) credit card;  
6619 (C) debit card; or  
6620 (D) travel card; or  
6621 (ii) by a charge made to a telephone number that is not associated with the origination  
6622 or termination of the telecommunications service.  
6623 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling  
6624 service, that would be a prepaid wireless calling service if the service were exclusively a  
6625 telecommunications service.  
6626 (88) "Postproduction" means an activity related to the finishing or duplication of a  
6627 medium described in Subsection [59-12-104\(54\)\(a\)](#).  
6628 (89) "Prepaid calling service" means a telecommunications service:  
6629 (a) that allows a purchaser access to telecommunications service that is exclusively  
6630 telecommunications service;

- 6631 (b) that:
- 6632 (i) is paid for in advance; and
- 6633 (ii) enables the origination of a call using an:
- 6634 (A) access number; or
- 6635 (B) authorization code;
- 6636 (c) that is dialed:
- 6637 (i) manually; or
- 6638 (ii) electronically; and
- 6639 (d) sold in predetermined units or dollars that decline:
- 6640 (i) by a known amount; and
- 6641 (ii) with use.
- 6642 (90) "Prepaid wireless calling service" means a telecommunications service:
- 6643 (a) that provides the right to utilize:
- 6644 (i) mobile wireless service; and
- 6645 (ii) other service that is not a telecommunications service, including:
- 6646 (A) the download of a product transferred electronically;
- 6647 (B) a content service; or
- 6648 (C) an ancillary service;
- 6649 (b) that:
- 6650 (i) is paid for in advance; and
- 6651 (ii) enables the origination of a call using an:
- 6652 (A) access number; or
- 6653 (B) authorization code;
- 6654 (c) that is dialed:
- 6655 (i) manually; or
- 6656 (ii) electronically; and
- 6657 (d) sold in predetermined units or dollars that decline:
- 6658 (i) by a known amount; and
- 6659 (ii) with use.
- 6660 (91) (a) "Prepared food" means:
- 6661 (i) food:

- 6662 (A) sold in a heated state; or
- 6663 (B) heated by a seller;
- 6664 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 6665 item; or
- 6666 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 6667 by the seller, including a:
  - 6668 (A) plate;
  - 6669 (B) knife;
  - 6670 (C) fork;
  - 6671 (D) spoon;
  - 6672 (E) glass;
  - 6673 (F) cup;
  - 6674 (G) napkin; or
  - 6675 (H) straw.
- 6676 (b) "Prepared food" does not include:
  - 6677 (i) food that a seller only:
    - 6678 (A) cuts;
    - 6679 (B) repackages; or
    - 6680 (C) pasteurizes; or
  - 6681 (ii) (A) the following:
    - 6682 (I) raw egg;
    - 6683 (II) raw fish;
    - 6684 (III) raw meat;
    - 6685 (IV) raw poultry; or
    - 6686 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 6687 and
- 6688 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 6689 Food and Drug Administration's Food Code that a consumer cook the items described in
- 6690 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 6691 (iii) the following if sold without eating utensils provided by the seller:
  - 6692 (A) food and food ingredients sold by a seller if the seller's proper primary

6693 classification under the 2002 North American Industry Classification System of the federal  
6694 Executive Office of the President, Office of Management and Budget, is manufacturing in  
6695 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla

6696 Manufacturing;

6697 (B) food and food ingredients sold in an unheated state:

6698 (I) by weight or volume; and

6699 (II) as a single item; or

6700 (C) a bakery item, including:

6701 (I) a bagel;

6702 (II) a bar;

6703 (III) a biscuit;

6704 (IV) bread;

6705 (V) a bun;

6706 (VI) a cake;

6707 (VII) a cookie;

6708 (VIII) a croissant;

6709 (IX) a danish;

6710 (X) a donut;

6711 (XI) a muffin;

6712 (XII) a pastry;

6713 (XIII) a pie;

6714 (XIV) a roll;

6715 (XV) a tart;

6716 (XVI) a torte; or

6717 (XVII) a tortilla.

6718 (c) An eating utensil provided by the seller does not include the following used to  
6719 transport the food:

6720 (i) a container; or

6721 (ii) packaging.

6722 (92) "Prescription" means an order, formula, or recipe that is issued:

6723 (a) (i) orally;

- 6724 (ii) in writing;
- 6725 (iii) electronically; or
- 6726 (iv) by any other manner of transmission; and
- 6727 (b) by a licensed practitioner authorized by the laws of a state.
- 6728 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 6729 software" means computer software that is not designed and developed:
- 6730 (i) by the author or other creator of the computer software; and
- 6731 (ii) to the specifications of a specific purchaser.
- 6732 (b) "Prewritten computer software" includes:
- 6733 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 6734 software is not designed and developed:
- 6735 (A) by the author or other creator of the computer software; and
- 6736 (B) to the specifications of a specific purchaser;
- 6737 (ii) computer software designed and developed by the author or other creator of the
- 6738 computer software to the specifications of a specific purchaser if the computer software is sold
- 6739 to a person other than the purchaser; or
- 6740 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
- 6741 prewritten portion of prewritten computer software:
- 6742 (A) that is modified or enhanced to any degree; and
- 6743 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
- 6744 designed and developed to the specifications of a specific purchaser.
- 6745 (c) "Prewritten computer software" does not include a modification or enhancement
- 6746 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
- 6747 (i) reasonable; and
- 6748 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), separately stated on the
- 6749 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 6750 demonstrated by:
- 6751 (A) the books and records the seller keeps at the time of the transaction in the regular
- 6752 course of business, including books and records the seller keeps at the time of the transaction in
- 6753 the regular course of business for nontax purposes;
- 6754 (B) a preponderance of the facts and circumstances at the time of the transaction; and

- 6755 (C) the understanding of all of the parties to the transaction.
- 6756 (94) (a) "Private communications service" means a telecommunications service:
- 6757 (i) that entitles a customer to exclusive or priority use of one or more communications
- 6758 channels between or among termination points; and
- 6759 (ii) regardless of the manner in which the one or more communications channels are
- 6760 connected.
- 6761 (b) "Private communications service" includes the following provided in connection
- 6762 with the use of one or more communications channels:
- 6763 (i) an extension line;
- 6764 (ii) a station;
- 6765 (iii) switching capacity; or
- 6766 (iv) another associated service that is provided in connection with the use of one or
- 6767 more communications channels as defined in Section [59-12-215](#).
- 6768 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
- 6769 means a product transferred electronically that would be subject to a tax under this chapter if
- 6770 that product was transferred in a manner other than electronically.
- 6771 (b) "Product transferred electronically" does not include:
- 6772 (i) an ancillary service;
- 6773 (ii) computer software; or
- 6774 (iii) a telecommunications service.
- 6775 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 6776 (i) artificially replace a missing portion of the body;
- 6777 (ii) prevent or correct a physical deformity or physical malfunction; or
- 6778 (iii) support a weak or deformed portion of the body.
- 6779 (b) "Prosthetic device" includes:
- 6780 (i) parts used in the repairs or renovation of a prosthetic device;
- 6781 (ii) replacement parts for a prosthetic device;
- 6782 (iii) a dental prosthesis; or
- 6783 (iv) a hearing aid.
- 6784 (c) "Prosthetic device" does not include:
- 6785 (i) corrective eyeglasses; or

- 6786 (ii) contact lenses.
- 6787 (97) (a) "Protective equipment" means an item:
- 6788 (i) for human wear; and
- 6789 (ii) that is:
- 6790 (A) designed as protection:
- 6791 (I) to the wearer against injury or disease; or
- 6792 (II) against damage or injury of other persons or property; and
- 6793 (B) not suitable for general use.
- 6794 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6795 commission shall make rules:
- 6796 (i) listing the items that constitute "protective equipment"; and
- 6797 (ii) that are consistent with the list of items that constitute "protective equipment"
- 6798 under the agreement.
- 6799 (98) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written or
- 6800 printed matter, other than a photocopy:
- 6801 (i) regardless of:
- 6802 (A) characteristics;
- 6803 (B) copyright;
- 6804 (C) form;
- 6805 (D) format;
- 6806 (E) method of reproduction; or
- 6807 (F) source; and
- 6808 (ii) made available in printed or electronic format.
- 6809 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6810 commission may by rule define the term "photocopy."
- 6811 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 6812 (i) valued in money; and
- 6813 (ii) for which tangible personal property, a product transferred electronically, or
- 6814 services are:
- 6815 (A) sold;
- 6816 (B) leased; or

- 6817 (C) rented.
- 6818 (b) "Purchase price" and "sales price" include:
- 6819 (i) the seller's cost of the tangible personal property, a product transferred
- 6820 electronically, or services sold;
- 6821 (ii) expenses of the seller, including:
- 6822 (A) the cost of materials used;
- 6823 (B) a labor cost;
- 6824 (C) a service cost;
- 6825 (D) interest;
- 6826 (E) a loss;
- 6827 (F) the cost of transportation to the seller; or
- 6828 (G) a tax imposed on the seller;
- 6829 (iii) a charge by the seller for any service necessary to complete the sale; or
- 6830 (iv) consideration a seller receives from a person other than the purchaser if:
- 6831 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 6832 and
- 6833 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 6834 price reduction or discount on the sale;
- 6835 (B) the seller has an obligation to pass the price reduction or discount through to the
- 6836 purchaser;
- 6837 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 6838 the seller at the time of the sale to the purchaser; and
- 6839 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 6840 seller to claim a price reduction or discount; and
- 6841 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 6842 coupon, or other documentation with the understanding that the person other than the seller
- 6843 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 6844 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 6845 organization allowed a price reduction or discount, except that a preferred customer card that is
- 6846 available to any patron of a seller does not constitute membership in a group or organization
- 6847 allowed a price reduction or discount; or

- 6848 (III) the price reduction or discount is identified as a third party price reduction or
- 6849 discount on the:
- 6850 (Aa) invoice the purchaser receives; or
- 6851 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 6852 (c) "Purchase price" and "sales price" do not include:
- 6853 (i) a discount:
- 6854 (A) in a form including:
- 6855 (I) cash;
- 6856 (II) term; or
- 6857 (III) coupon;
- 6858 (B) that is allowed by a seller;
- 6859 (C) taken by a purchaser on a sale; and
- 6860 (D) that is not reimbursed by a third party; or
- 6861 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), the following if separately
- 6862 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 6863 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 6864 transaction in the regular course of business, including books and records the seller keeps at the
- 6865 time of the transaction in the regular course of business for nontax purposes, by a
- 6866 preponderance of the facts and circumstances at the time of the transaction, and by the
- 6867 understanding of all of the parties to the transaction:
- 6868 (A) the following from credit extended on the sale of tangible personal property or
- 6869 services:
- 6870 (I) a carrying charge;
- 6871 (II) a financing charge; or
- 6872 (III) an interest charge;
- 6873 (B) a delivery charge;
- 6874 (C) an installation charge;
- 6875 (D) a manufacturer rebate on a motor vehicle; or
- 6876 (E) a tax or fee legally imposed directly on the consumer.
- 6877 (100) "Purchaser" means a person to whom:
- 6878 (a) a sale of tangible personal property is made;

- 6879 (b) a product is transferred electronically; or  
6880 (c) a service is furnished.
- 6881 (101) "Qualifying enterprise data center" means an establishment that will:  
6882 (a) own and operate a data center facility that will house a group of networked server  
6883 computers in one physical location in order to centralize the dissemination, management, and  
6884 storage of data and information;  
6885 (b) be located in the state;  
6886 (c) be a new operation constructed on or after July 1, 2016;  
6887 (d) consist of one or more buildings that total 150,000 or more square feet;  
6888 (e) be owned or leased by:  
6889 (i) the establishment; or  
6890 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
6891 establishment; and  
6892 (f) be located on one or more parcels of land that are owned or leased by:  
6893 (i) the establishment; or  
6894 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
6895 establishment.
- 6896 (102) "Regularly rented" means:  
6897 (a) rented to a guest for value three or more times during a calendar year; or  
6898 (b) advertised or held out to the public as a place that is regularly rented to guests for  
6899 value.
- 6900 (103) "Rental" means the same as that term is defined in Subsection (59).
- 6901 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible  
6902 personal property" means:  
6903 (i) a repair or renovation of tangible personal property that is not permanently attached  
6904 to real property; or  
6905 (ii) attaching tangible personal property or a product transferred electronically to other  
6906 tangible personal property or detaching tangible personal property or a product transferred  
6907 electronically from other tangible personal property if:  
6908 (A) the other tangible personal property to which the tangible personal property or  
6909 product transferred electronically is attached or from which the tangible personal property or

6910 product transferred electronically is detached is not permanently attached to real property; and

6911 (B) the attachment of tangible personal property or a product transferred electronically  
6912 to other tangible personal property or detachment of tangible personal property or a product  
6913 transferred electronically from other tangible personal property is made in conjunction with a  
6914 repair or replacement of tangible personal property or a product transferred electronically.

6915 (b) "Repairs or renovations of tangible personal property" does not include:

6916 (i) attaching prewritten computer software to other tangible personal property if the  
6917 other tangible personal property to which the prewritten computer software is attached is not  
6918 permanently attached to real property; or

6919 (ii) detaching prewritten computer software from other tangible personal property if the  
6920 other tangible personal property from which the prewritten computer software is detached is  
6921 not permanently attached to real property.

6922 (105) "Research and development" means the process of inquiry or experimentation  
6923 aimed at the discovery of facts, devices, technologies, or applications and the process of  
6924 preparing those devices, technologies, or applications for marketing.

6925 (106) (a) "Residential telecommunications services" means a telecommunications  
6926 service or an ancillary service that is provided to an individual for personal use:

6927 (i) at a residential address; or

6928 (ii) at an institution, including a nursing home or a school, if the telecommunications  
6929 service or ancillary service is provided to and paid for by the individual residing at the  
6930 institution rather than the institution.

6931 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

6932 (i) apartment; or

6933 (ii) other individual dwelling unit.

6934 (107) "Residential use" means the use in or around a home, apartment building,  
6935 sleeping quarters, and similar facilities or accommodations.

6936 (108) (a) "Retailer" means any person engaged in a regularly organized business in  
6937 tangible personal property or any other taxable transaction under Subsection [59-12-103\(1\)](#), and  
6938 who is selling to the user or consumer and not for resale.

6939 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
6940 engaged in the business of selling to users or consumers within the state.

6941 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
6942 than:

- 6943 (a) resale;
- 6944 (b) sublease; or
- 6945 (c) subrent.

6946 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
6947 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
6948 Subsection 59-12-103(1), for consideration.

6949 (b) "Sale" includes:

- 6950 (i) installment and credit sales;
- 6951 (ii) any closed transaction constituting a sale;
- 6952 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
6953 chapter;

6954 (iv) any transaction if the possession of property is transferred but the seller retains the  
6955 title as security for the payment of the price; and

6956 (v) any transaction under which right to possession, operation, or use of any article of  
6957 tangible personal property is granted under a lease or contract and the transfer of possession  
6958 would be taxable if an outright sale were made.

6959 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

6960 (112) "Sale-leaseback transaction" means a transaction by which title to tangible  
6961 personal property or a product transferred electronically that is subject to a tax under this  
6962 chapter is transferred:

- 6963 (a) by a purchaser-lessee;
- 6964 (b) to a lessor;
- 6965 (c) for consideration; and
- 6966 (d) if:

6967 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase  
6968 of the tangible personal property or product transferred electronically;

6969 (ii) the sale of the tangible personal property or product transferred electronically to the  
6970 lessor is intended as a form of financing:

6971 (A) for the tangible personal property or product transferred electronically; and

6972 (B) to the purchaser-lessee; and  
6973 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee  
6974 is required to:

6975 (A) capitalize the tangible personal property or product transferred electronically for  
6976 financial reporting purposes; and

6977 (B) account for the lease payments as payments made under a financing arrangement.

6978 (113) "Sales price" means the same as that term is defined in Subsection (99).

6979 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
6980 amounts charged by a school:

6981 (i) sales that are directly related to the school's educational functions or activities  
6982 including:

6983 (A) the sale of:

6984 (I) textbooks;

6985 (II) textbook fees;

6986 (III) laboratory fees;

6987 (IV) laboratory supplies; or

6988 (V) safety equipment;

6989 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
6990 that:

6991 (I) a student is specifically required to wear as a condition of participation in a  
6992 school-related event or school-related activity; and

6993 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
6994 place of ordinary clothing;

6995 (C) sales of the following if the net or gross revenues generated by the sales are  
6996 deposited into a school district fund or school fund dedicated to school meals:

6997 (I) food and food ingredients; or

6998 (II) prepared food; or

6999 (D) transportation charges for official school activities; or

7000 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
7001 event or school-related activity.

7002 (b) "Sales relating to schools" does not include:

- 7003 (i) bookstore sales of items that are not educational materials or supplies;
- 7004 (ii) except as provided in Subsection (114)(a)(i)(B):
- 7005 (A) clothing;
- 7006 (B) clothing accessories or equipment;
- 7007 (C) protective equipment; or
- 7008 (D) sports or recreational equipment; or
- 7009 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 7010 event or school-related activity if the amounts paid or charged are passed through to a person:
- 7011 (A) other than a:
- 7012 (I) school;
- 7013 (II) nonprofit organization authorized by a school board or a governing body of a
- 7014 private school to organize and direct a competitive secondary school activity; or
- 7015 (III) nonprofit association authorized by a school board or a governing body of a
- 7016 private school to organize and direct a competitive secondary school activity; and
- 7017 (B) that is required to collect sales and use taxes under this chapter.
- 7018 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 7019 commission may make rules defining the term "passed through."
- 7020 (115) For purposes of this section and Section [59-12-104](#), "school":
- 7021 (a) means:
- 7022 (i) an elementary school or a secondary school that:
- 7023 (A) is a:
- 7024 (I) public school; or
- 7025 (II) private school; and
- 7026 (B) provides instruction for one or more grades kindergarten through 12; or
- 7027 (ii) a public school district; and
- 7028 (b) includes the Electronic High School as defined in Section [[53A-15-1002](#)]
- 7029 [53E-10-601](#).
- 7030 (116) "Seller" means a person that makes a sale, lease, or rental of:
- 7031 (a) tangible personal property;
- 7032 (b) a product transferred electronically; or
- 7033 (c) a service.

7034 (117) (a) "Semiconductor fabricating, processing, research, or development materials"  
7035 means tangible personal property or a product transferred electronically if the tangible personal  
7036 property or product transferred electronically is:

7037 (i) used primarily in the process of:

7038 (A) (I) manufacturing a semiconductor;

7039 (II) fabricating a semiconductor; or

7040 (III) research or development of a:

7041 (Aa) semiconductor; or

7042 (Bb) semiconductor manufacturing process; or

7043 (B) maintaining an environment suitable for a semiconductor; or

7044 (ii) consumed primarily in the process of:

7045 (A) (I) manufacturing a semiconductor;

7046 (II) fabricating a semiconductor; or

7047 (III) research or development of a:

7048 (Aa) semiconductor; or

7049 (Bb) semiconductor manufacturing process; or

7050 (B) maintaining an environment suitable for a semiconductor.

7051 (b) "Semiconductor fabricating, processing, research, or development materials"

7052 includes:

7053 (i) parts used in the repairs or renovations of tangible personal property or a product  
7054 transferred electronically described in Subsection (117)(a); or

7055 (ii) a chemical, catalyst, or other material used to:

7056 (A) produce or induce in a semiconductor a:

7057 (I) chemical change; or

7058 (II) physical change;

7059 (B) remove impurities from a semiconductor; or

7060 (C) improve the marketable condition of a semiconductor.

7061 (118) "Senior citizen center" means a facility having the primary purpose of providing  
7062 services to the aged as defined in Section [62A-3-101](#).

7063 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"  
7064 means tangible personal property that:

7065 (i) a business that provides accommodations and services described in Subsection  
7066 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services  
7067 to a purchaser;

7068 (ii) is intended to be consumed by the purchaser; and

7069 (iii) is:

7070 (A) included in the purchase price of the accommodations and services; and

7071 (B) not separately stated on an invoice, bill of sale, or other similar document provided  
7072 to the purchaser.

7073 (b) "Short-term lodging consumable" includes:

7074 (i) a beverage;

7075 (ii) a brush or comb;

7076 (iii) a cosmetic;

7077 (iv) a hair care product;

7078 (v) lotion;

7079 (vi) a magazine;

7080 (vii) makeup;

7081 (viii) a meal;

7082 (ix) mouthwash;

7083 (x) nail polish remover;

7084 (xi) a newspaper;

7085 (xii) a notepad;

7086 (xiii) a pen;

7087 (xiv) a pencil;

7088 (xv) a razor;

7089 (xvi) saline solution;

7090 (xvii) a sewing kit;

7091 (xviii) shaving cream;

7092 (xix) a shoe shine kit;

7093 (xx) a shower cap;

7094 (xxi) a snack item;

7095 (xxii) soap;

7096 (xxiii) toilet paper;  
7097 (xxiv) a toothbrush;  
7098 (xxv) toothpaste; or  
7099 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may  
7100 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
7101 Rulemaking Act.

7102 (c) "Short-term lodging consumable" does not include:  
7103 (i) tangible personal property that is cleaned or washed to allow the tangible personal  
7104 property to be reused; or  
7105 (ii) a product transferred electronically.

7106 (120) "Simplified electronic return" means the electronic return:  
7107 (a) described in Section 318(C) of the agreement; and  
7108 (b) approved by the governing board of the agreement.

7109 (121) "Solar energy" means the sun used as the sole source of energy for producing  
7110 electricity.

7111 (122) (a) "Sports or recreational equipment" means an item:  
7112 (i) designed for human use; and  
7113 (ii) that is:  
7114 (A) worn in conjunction with:  
7115 (I) an athletic activity; or  
7116 (II) a recreational activity; and  
7117 (B) not suitable for general use.

7118 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7119 commission shall make rules:  
7120 (i) listing the items that constitute "sports or recreational equipment"; and  
7121 (ii) that are consistent with the list of items that constitute "sports or recreational  
7122 equipment" under the agreement.

7123 (123) "State" means the state of Utah, its departments, and agencies.

7124 (124) "Storage" means any keeping or retention of tangible personal property or any  
7125 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except  
7126 sale in the regular course of business.

7127 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"

7128 means personal property that:

7129 (i) may be:

7130 (A) seen;

7131 (B) weighed;

7132 (C) measured;

7133 (D) felt; or

7134 (E) touched; or

7135 (ii) is in any manner perceptible to the senses.

7136 (b) "Tangible personal property" includes:

7137 (i) electricity;

7138 (ii) water;

7139 (iii) gas;

7140 (iv) steam; or

7141 (v) prewritten computer software, regardless of the manner in which the prewritten

7142 computer software is transferred.

7143 (c) "Tangible personal property" includes the following regardless of whether the item

7144 is attached to real property:

7145 (i) a dishwasher;

7146 (ii) a dryer;

7147 (iii) a freezer;

7148 (iv) a microwave;

7149 (v) a refrigerator;

7150 (vi) a stove;

7151 (vii) a washer; or

7152 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the

7153 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

7154 Rulemaking Act.

7155 (d) "Tangible personal property" does not include a product that is transferred

7156 electronically.

7157 (e) "Tangible personal property" does not include the following if attached to real

7158 property, regardless of whether the attachment to real property is only through a line that  
7159 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the  
7160 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
7161 Rulemaking Act:

- 7162 (i) a hot water heater;
- 7163 (ii) a water filtration system; or
- 7164 (iii) a water softener system.

7165 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or  
7166 software" means an item listed in Subsection (126)(b) if that item is purchased or leased  
7167 primarily to enable or facilitate one or more of the following to function:

- 7168 (i) telecommunications switching or routing equipment, machinery, or software; or
- 7169 (ii) telecommunications transmission equipment, machinery, or software.

7170 (b) The following apply to Subsection (126)(a):

- 7171 (i) a pole;
- 7172 (ii) software;
- 7173 (iii) a supplementary power supply;
- 7174 (iv) temperature or environmental equipment or machinery;
- 7175 (v) test equipment;
- 7176 (vi) a tower; or
- 7177 (vii) equipment, machinery, or software that functions similarly to an item listed in

7178 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in  
7179 accordance with Subsection (126)(c).

7180 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7181 commission may by rule define what constitutes equipment, machinery, or software that  
7182 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

7183 (127) "Telecommunications equipment, machinery, or software required for 911  
7184 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
7185 Sec. 20.18.

7186 (128) "Telecommunications maintenance or repair equipment, machinery, or software"  
7187 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
7188 one or more of the following, regardless of whether the equipment, machinery, or software is

7189 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
7190 following:

7191 (a) telecommunications enabling or facilitating equipment, machinery, or software;

7192 (b) telecommunications switching or routing equipment, machinery, or software; or

7193 (c) telecommunications transmission equipment, machinery, or software.

7194 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or  
7195 transmission of audio, data, video, voice, or any other information or signal to a point, or  
7196 among or between points.

7197 (b) "Telecommunications service" includes:

7198 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
7199 processing application is used to act:

7200 (A) on the code, form, or protocol of the content;

7201 (B) for the purpose of electronic conveyance, routing, or transmission; and

7202 (C) regardless of whether the service:

7203 (I) is referred to as voice over Internet protocol service; or

7204 (II) is classified by the Federal Communications Commission as enhanced or value

7205 added;

7206 (ii) an 800 service;

7207 (iii) a 900 service;

7208 (iv) a fixed wireless service;

7209 (v) a mobile wireless service;

7210 (vi) a postpaid calling service;

7211 (vii) a prepaid calling service;

7212 (viii) a prepaid wireless calling service; or

7213 (ix) a private communications service.

7214 (c) "Telecommunications service" does not include:

7215 (i) advertising, including directory advertising;

7216 (ii) an ancillary service;

7217 (iii) a billing and collection service provided to a third party;

7218 (iv) a data processing and information service if:

7219 (A) the data processing and information service allows data to be:

- 7220 (I) (Aa) acquired;
- 7221 (Bb) generated;
- 7222 (Cc) processed;
- 7223 (Dd) retrieved; or
- 7224 (Ee) stored; and
- 7225 (II) delivered by an electronic transmission to a purchaser; and
- 7226 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 7227 or information;
- 7228 (v) installation or maintenance of the following on a customer's premises:
- 7229 (A) equipment; or
- 7230 (B) wiring;
- 7231 (vi) Internet access service;
- 7232 (vii) a paging service;
- 7233 (viii) a product transferred electronically, including:
- 7234 (A) music;
- 7235 (B) reading material;
- 7236 (C) a ring tone;
- 7237 (D) software; or
- 7238 (E) video;
- 7239 (ix) a radio and television audio and video programming service:
- 7240 (A) regardless of the medium; and
- 7241 (B) including:
- 7242 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 7243 programming service by a programming service provider;
- 7244 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 7245 (III) audio and video programming services delivered by a commercial mobile radio
- 7246 service provider as defined in 47 C.F.R. Sec. 20.3;
- 7247 (x) a value-added nonvoice data service; or
- 7248 (xi) tangible personal property.
- 7249 (130) (a) "Telecommunications service provider" means a person that:
- 7250 (i) owns, controls, operates, or manages a telecommunications service; and

7251 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or  
7252 resale to any person of the telecommunications service.

7253 (b) A person described in Subsection (130)(a) is a telecommunications service provider  
7254 whether or not the Public Service Commission of Utah regulates:

7255 (i) that person; or

7256 (ii) the telecommunications service that the person owns, controls, operates, or  
7257 manages.

7258 (131) (a) "Telecommunications switching or routing equipment, machinery, or  
7259 software" means an item listed in Subsection (131)(b) if that item is purchased or leased  
7260 primarily for switching or routing:

7261 (i) an ancillary service;

7262 (ii) data communications;

7263 (iii) voice communications; or

7264 (iv) telecommunications service.

7265 (b) The following apply to Subsection (131)(a):

7266 (i) a bridge;

7267 (ii) a computer;

7268 (iii) a cross connect;

7269 (iv) a modem;

7270 (v) a multiplexer;

7271 (vi) plug in circuitry;

7272 (vii) a router;

7273 (viii) software;

7274 (ix) a switch; or

7275 (x) equipment, machinery, or software that functions similarly to an item listed in  
7276 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in  
7277 accordance with Subsection (131)(c).

7278 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7279 commission may by rule define what constitutes equipment, machinery, or software that  
7280 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

7281 (132) (a) "Telecommunications transmission equipment, machinery, or software"

7282 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for  
7283 sending, receiving, or transporting:

- 7284 (i) an ancillary service;
  - 7285 (ii) data communications;
  - 7286 (iii) voice communications; or
  - 7287 (iv) telecommunications service.
- 7288 (b) The following apply to Subsection (132)(a):
- 7289 (i) an amplifier;
  - 7290 (ii) a cable;
  - 7291 (iii) a closure;
  - 7292 (iv) a conduit;
  - 7293 (v) a controller;
  - 7294 (vi) a duplexer;
  - 7295 (vii) a filter;
  - 7296 (viii) an input device;
  - 7297 (ix) an input/output device;
  - 7298 (x) an insulator;
  - 7299 (xi) microwave machinery or equipment;
  - 7300 (xii) an oscillator;
  - 7301 (xiii) an output device;
  - 7302 (xiv) a pedestal;
  - 7303 (xv) a power converter;
  - 7304 (xvi) a power supply;
  - 7305 (xvii) a radio channel;
  - 7306 (xviii) a radio receiver;
  - 7307 (xix) a radio transmitter;
  - 7308 (xx) a repeater;
  - 7309 (xxi) software;
  - 7310 (xxii) a terminal;
  - 7311 (xxiii) a timing unit;
  - 7312 (xxiv) a transformer;

- 7313 (xxv) a wire; or  
7314 (xxvi) equipment, machinery, or software that functions similarly to an item listed in  
7315 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in  
7316 accordance with Subsection (132)(c).
- 7317 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7318 commission may by rule define what constitutes equipment, machinery, or software that  
7319 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).
- 7320 (133) (a) "Textbook for a higher education course" means a textbook or other printed  
7321 material that is required for a course:
- 7322 (i) offered by an institution of higher education; and  
7323 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 7324 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 7325 (134) "Tobacco" means:
- 7326 (a) a cigarette;  
7327 (b) a cigar;  
7328 (c) chewing tobacco;  
7329 (d) pipe tobacco; or  
7330 (e) any other item that contains tobacco.
- 7331 (135) "Unassisted amusement device" means an amusement device, skill device, or  
7332 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
7333 the amusement device, skill device, or ride device.
- 7334 (136) (a) "Use" means the exercise of any right or power over tangible personal  
7335 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
7336 incident to the ownership or the leasing of that tangible personal property, product transferred  
7337 electronically, or service.
- 7338 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
7339 property, a product transferred electronically, or a service in the regular course of business and  
7340 held for resale.
- 7341 (137) "Value-added nonvoice data service" means a service:
- 7342 (a) that otherwise meets the definition of a telecommunications service except that a  
7343 computer processing application is used to act primarily for a purpose other than conveyance,

7344 routing, or transmission; and

7345 (b) with respect to which a computer processing application is used to act on data or  
7346 information:

- 7347 (i) code;
- 7348 (ii) content;
- 7349 (iii) form; or
- 7350 (iv) protocol.

7351 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are  
7352 required to be titled, registered, or titled and registered:

- 7353 (i) an aircraft as defined in Section 72-10-102;
- 7354 (ii) a vehicle as defined in Section 41-1a-102;
- 7355 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 7356 (iv) a vessel as defined in Section 41-1a-102.

7357 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 7358 (i) a vehicle described in Subsection (138)(a); or
- 7359 (ii) (A) a locomotive;
- 7360 (B) a freight car;
- 7361 (C) railroad work equipment; or
- 7362 (D) other railroad rolling stock.

7363 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
7364 exchanging a vehicle as defined in Subsection (138).

7365 (140) (a) "Vertical service" means an ancillary service that:

- 7366 (i) is offered in connection with one or more telecommunications services; and
- 7367 (ii) offers an advanced calling feature that allows a customer to:
  - 7368 (A) identify a caller; and
  - 7369 (B) manage multiple calls and call connections.

7370 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
7371 conference bridging service.

7372 (141) (a) "Voice mail service" means an ancillary service that enables a customer to  
7373 receive, send, or store a recorded message.

7374 (b) "Voice mail service" does not include a vertical service that a customer is required

7375 to have in order to utilize a voice mail service.

7376 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a  
7377 facility that generates electricity:

7378 (i) using as the primary source of energy waste materials that would be placed in a  
7379 landfill or refuse pit if it were not used to generate electricity, including:

7380 (A) tires;

7381 (B) waste coal;

7382 (C) oil shale; or

7383 (D) municipal solid waste; and

7384 (ii) in amounts greater than actually required for the operation of the facility.

7385 (b) "Waste energy facility" does not include a facility that incinerates:

7386 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

7387 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

7388 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

7389 (144) "Wind energy" means wind used as the sole source of energy to produce  
7390 electricity.

7391 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
7392 location by the United States Postal Service.

7393 Section 79. Section **59-28-103** is amended to read:

7394 **59-28-103. Imposition -- Rate -- Revenue distribution.**

7395 (1) Subject to the other provisions of this chapter, the state shall impose a tax on the  
7396 transactions described in Subsection [59-12-103\(1\)\(i\)](#) at a rate of .32%.

7397 (2) The tax imposed under this chapter is in addition to any other taxes imposed on the  
7398 transactions described in Subsection [59-12-103\(1\)\(i\)](#).

7399 (3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the  
7400 revenue the state collects from the tax under this chapter into the Hospitality and Tourism  
7401 Management Education Account created in Section [~~53A-15-207~~] [53F-9-501](#) to fund the  
7402 Hospitality and Tourism Management Career and Technical Education Pilot Program created  
7403 in Section [~~53A-15-206~~] [53E-3-515](#).

7404 (ii) The commission may not deposit more than \$300,000 into the Hospitality and  
7405 Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

7406 (b) Except for the amount deposited into the Hospitality and Tourism Management  
7407 Education Account under Subsection (3)(a) and the administrative charge retained under  
7408 Subsection [59-28-104](#)(4), the commission shall deposit any revenue the state collects from the  
7409 tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section  
7410 [63N-9-205](#) to fund the Outdoor Recreational Infrastructure Grant Program created in Section  
7411 [63N-9-202](#).

7412 Section 80. Section [62A-2-108.1](#) is amended to read:

7413 **[62A-2-108.1](#). Coordination of human services and educational services --**

7414 **Licensing of programs -- Procedures.**

7415 (1) For purposes of this section:

7416 (a) "accredited private school" means a private school that is accredited by an  
7417 accrediting entity recognized by the Utah State Board of Education; and

7418 (b) "education entitled children" means children:

7419 (i) subject to compulsory education under Section [~~53A-11-101.5~~] [53G-6-202](#);

7420 (ii) subject to the school attendance requirements of Section [~~53A-11-101.7~~]

7421 [53G-6-203](#); or

7422 (iii) entitled to educational services under Section [~~53A-15-301~~] [53E-7-202](#).

7423 (2) Subject to Subsection (8) or (9), a human services program may not be licensed to  
7424 serve education entitled children unless the human services program presents an educational  
7425 service plan that includes evidence:

7426 (a) satisfactory to:

7427 (i) the office; and

7428 (ii) (A) the local school board of the school district in which the human services  
7429 program will be operated; or

7430 (B) the school district superintendent of the school district in which the human services  
7431 program will be operated; and

7432 (b) that children served by the human services program shall receive appropriate  
7433 educational services satisfying the requirements of applicable law.

7434 (3) Subject to Subsection (8) or (9), if a human services program serves any education  
7435 entitled children whose custodial parents or legal guardians reside outside the state, then the  
7436 program shall also provide an educational funding plan that includes evidence:

- 7437 (a) satisfactory to:
- 7438 (i) the office; and
- 7439 (ii) (A) the local school board of the school district in which the human services
- 7440 program will be operated; or
- 7441 (B) the school district superintendent of the school district in which the human services
- 7442 program will be operated; and
- 7443 (b) that all costs for educational services to be provided to the education entitled
- 7444 children, including tuition, and school fees approved by the local school board, shall be borne
- 7445 by the human services program.
- 7446 (4) Subject to Subsection (8) or (9), and in accordance with Subsection (2), the human
- 7447 services program shall obtain and provide the office with a letter:
- 7448 (a) from the entity referred to in Subsection (2)(a)(ii):
- 7449 (i) approving the educational service plan referred to in Subsection (2); or
- 7450 (ii) (A) disapproving the educational service plan referred to in Subsection (2); and
- 7451 (B) listing the specific requirements the human services program must meet before
- 7452 approval is granted; and
- 7453 (b) from the entity referred to in Subsection (3)(a)(ii):
- 7454 (i) approving the educational funding plan, referred to in Subsection (3); or
- 7455 (ii) (A) disapproving the educational funding plan, referred to in Subsection (3); and
- 7456 (B) listing the specific requirements the human services program must meet before
- 7457 approval is granted.
- 7458 (5) Subject to Subsection (8), failure of a local school board or school district
- 7459 superintendent to respond to a proposed plan within 45 days of receipt of the plan is equivalent
- 7460 to approval of the plan by the local school board or school district superintendent if the human
- 7461 services program provides to the office:
- 7462 (a) proof that:
- 7463 (i) the human services program submitted the proposed plan to the local school board
- 7464 or school district superintendent; and
- 7465 (ii) more than 45 days have passed from the day on which the plan was submitted; and
- 7466 (b) an affidavit, on a form produced by the office, stating:
- 7467 (i) the date that the human services program submitted the proposed plan to the local

7468 school board or school district superintendent;

7469 (ii) that more than 45 days have passed from the day on which the plan was submitted;

7470 and

7471 (iii) that the local school board or school district superintendent described in

7472 Subsection (5)(b)(i) failed to respond to the proposed plan within 45 days from the day on

7473 which the plan was submitted.

7474 (6) If a licensee that is licensed to serve an education entitled child fails to comply with  
7475 its approved educational service plan or educational funding plan, then:

7476 (a) the office shall give the licensee notice of intent to revoke the licensee's license; and

7477 (b) if the licensee continues its noncompliance for more than 30 days after receipt of  
7478 the notice described in Subsection (6)(a), the office shall revoke the licensee's license.

7479 (7) If an education entitled child whose custodial parent or legal guardian resides  
7480 within the state is provided with educational services by a school district other than the school  
7481 district in which the custodial parent or legal guardian resides, then the funding provisions of  
7482 Section [~~53A-2-210~~] [53G-6-405](#) apply.

7483 (8) A human services program that is an accredited private school:

7484 (a) for purposes of Subsection (2):

7485 (i) is only required to submit proof to the office that the accreditation of the private  
7486 school is current; and

7487 (ii) is not required to submit an educational service plan for approval by an entity  
7488 described in Subsection (2)(a)(ii);

7489 (b) for purposes of Subsection (3):

7490 (i) is only required to submit proof to the office that all costs for educational services  
7491 provided to education entitled children will be borne by the human services program; and

7492 (ii) is not required to submit an educational funding plan for approval by an entity  
7493 described in Subsection (3)(a)(ii); and

7494 (c) is not required to comply with Subsections (4) and (5).

7495 (9) Except for Subsection (7), the provisions of this section do not apply to a human  
7496 services program that is:

7497 (a) a foster home; and

7498 (b) required to be licensed by the office.

7499 Section 81. Section **62A-4a-202.6** is amended to read:

7500 **62A-4a-202.6. Conflict child protective services investigations -- Authority of**  
7501 **investigators.**

7502 (1) (a) The division shall contract with an independent child protective service  
7503 investigator from the private sector to investigate reports of abuse or neglect of a child that  
7504 occur while the child is in the custody of the division.

7505 (b) The executive director shall designate an entity within the department, other than  
7506 the division, to monitor the contract for the investigators described in Subsection (1)(a).

7507 (c) Subject to Subsection (4), when a report is made that a child is abused or neglected  
7508 while in the custody of the division:

7509 (i) the attorney general may, in accordance with Section **67-5-16**, and with the consent  
7510 of the division, employ a child protective services investigator to conduct a conflict  
7511 investigation of the report; or

7512 (ii) a law enforcement officer, as defined in Section **53-13-103**, may, with the consent  
7513 of the division, conduct a conflict investigation of the report.

7514 (d) Subsection (1)(c)(ii) does not prevent a law enforcement officer from, without the  
7515 consent of the division, conducting a criminal investigation of abuse or neglect under Title 53,  
7516 Public Safety Code.

7517 (2) The investigators described in Subsections (1)(c) and (d) may also investigate  
7518 allegations of abuse or neglect of a child by a department employee or a licensed substitute care  
7519 provider.

7520 (3) The investigators described in Subsection (1), if not peace officers, shall have the  
7521 same rights, duties, and authority of a child protective services investigator employed by the  
7522 division to:

7523 (a) make a thorough investigation upon receiving either an oral or written report of  
7524 alleged abuse or neglect of a child, with the primary purpose of that investigation being the  
7525 protection of the child;

7526 (b) make an inquiry into the child's home environment, emotional, or mental health, the  
7527 nature and extent of the child's injuries, and the child's physical safety;

7528 (c) make a written report of their investigation, including determination regarding  
7529 whether the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and

7530 forward a copy of that report to the division within the time mandates for investigations  
7531 established by the division; and

7532 (d) immediately consult with school authorities to verify the child's status in  
7533 accordance with Sections ~~[53A-11-101]~~ [53G-6-201](#) through ~~[53A-11-103]~~ [53G-6-206](#) when a  
7534 report is based upon or includes an allegation of educational neglect.

7535 (4) If there is a lapse in the contract with a private child protective service investigator  
7536 and no other investigator is available under Subsection (1)(a) or (c), the department may  
7537 conduct an independent investigation.

7538 Section 82. Section ~~62A-4a-409~~ is amended to read:

7539 **62A-4a-409. Investigation by division -- Temporary protective custody --**  
7540 **Preremoval interviews of children.**

7541 (1) (a) The division shall make a thorough preremoval investigation upon receiving  
7542 either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug  
7543 dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal  
7544 alcohol syndrome, or fetal drug dependency exists.

7545 (b) The primary purpose of the investigation described in Subsection (1)(a) shall be  
7546 protection of the child.

7547 (2) The preremoval investigation described in Subsection (1)(a) shall include the same  
7548 investigative requirements described in Section [62A-4a-202.3](#).

7549 (3) The division shall make a written report of its investigation that shall include a  
7550 determination regarding whether the alleged abuse or neglect is supported, unsupported, or  
7551 without merit.

7552 (4) (a) The division shall use an interdisciplinary approach when appropriate in dealing  
7553 with reports made under this part.

7554 (b) The division shall convene a child protection team to assist the division in the  
7555 division's protective, diagnostic, assessment, treatment, and coordination services.

7556 (c) The division may include members of a child protection unit in the division's  
7557 protective, diagnostic, assessment, treatment, and coordination services.

7558 (d) A representative of the division shall serve as the team's coordinator and chair.  
7559 Members of the team shall serve at the coordinator's invitation. Whenever possible, the team  
7560 shall include representatives of:

- 7561 (i) health, mental health, education, and law enforcement agencies;  
7562 (ii) the child;  
7563 (iii) parent and family support groups unless the parent is alleged to be the perpetrator;  
7564 and  
7565 (iv) other appropriate agencies or individuals.
- 7566 (5) If a report of neglect is based upon or includes an allegation of educational neglect,  
7567 the division shall immediately consult with school authorities to verify the child's status in  
7568 accordance with Sections [~~53A-11-101~~] [53G-6-201](#) through [~~53A-11-103~~] [53G-6-206](#).
- 7569 (6) When the division completes its initial investigation under this part, it shall give  
7570 notice of that completion to the person who made the initial report.
- 7571 (7) Division workers or other child protection team members have authority to enter  
7572 upon public or private premises, using appropriate legal processes, to investigate reports of  
7573 alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse  
7574 Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.
- 7575 (8) With regard to any interview of a child prior to removal of that child from the  
7576 child's home:
- 7577 (a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of  
7578 the child prior to the interview of:
- 7579 (i) the specific allegations concerning the child; and  
7580 (ii) the time and place of the interview;
- 7581 (b) if a child's parent or stepparent, or a parent's paramour has been identified as the  
7582 alleged perpetrator, the division is not required to comply with Subsection (8)(a);
- 7583 (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family  
7584 is unknown, the division may conduct a minimal interview or conversation, not to exceed 15  
7585 minutes, with the child prior to complying with Subsection (8)(a);
- 7586 (d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be  
7587 notified as soon as practicable after the child has been interviewed, but in no case later than 24  
7588 hours after the interview has taken place;
- 7589 (e) a child's parents shall be notified of the time and place of all subsequent interviews  
7590 with the child; and
- 7591 (f) the child shall be allowed to have a support person of the child's choice present,

7592 who:

7593 (i) may include:

7594 (A) a school teacher;

7595 (B) an administrator;

7596 (C) a guidance counselor;

7597 (D) a child care provider;

7598 (E) a family member;

7599 (F) a family advocate; or

7600 (G) clergy; and

7601 (ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.

7602 (9) In accordance with the procedures and requirements of Sections [62A-4a-202.1](#)

7603 through [62A-4a-202.3](#), a division worker or child protection team member may take a child

7604 into protective custody and deliver the child to a law enforcement officer, or place the child in

7605 an emergency shelter facility approved by the juvenile court, at the earliest opportunity

7606 subsequent to the child's removal from the child's original environment. Control and

7607 jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile

7608 Court Act, and as otherwise provided by law.

7609 (10) With regard to cases in which law enforcement has or is conducting an

7610 investigation of alleged abuse or neglect of a child:

7611 (a) the division shall coordinate with law enforcement to ensure that there is an

7612 adequate safety plan to protect the child from further abuse or neglect; and

7613 (b) the division is not required to duplicate an aspect of the investigation that, in the

7614 division's determination, has been satisfactorily completed by law enforcement.

7615 (11) With regard to a mutual case in which a child protection unit was involved in the

7616 investigation of alleged abuse or neglect of a child, the division shall consult with the child

7617 protection unit before closing the case.

7618 Section 83. Section **62A-4a-606** is amended to read:

7619 **62A-4a-606. Child-placing agency responsibility for educational services --**

7620 **Payment of costs.**

7621 (1) A child-placing agency shall ensure that the requirements of Subsections

7622 [[53A-11-101.5](#)] [53G-6-202](#)(2) and [[53A-11-101.7](#)] [53G-6-203](#)(1) are met through the provision

7623 of appropriate educational services for all children served in the state by the agency.

7624 (2) If the educational services are to be provided through a public school, and:

7625 (a) the custodial parent or legal guardian resides outside the state, then the child  
7626 placing agency shall pay all educational costs required under Sections [~~53A-2-205~~] 53G-6-306  
7627 and [~~53A-12-102~~] 53G-7-503; or

7628 (b) the custodial parent or legal guardian resides within the state, then the child placing  
7629 agency shall pay all educational costs required under Section [~~53A-12-102~~] 53G-7-503.

7630 (3) Children in the custody or under the care of a Utah state agency are exempt from  
7631 the payment of fees required under Subsection (2).

7632 (4) A public school shall admit any child living within its school boundaries who is  
7633 under the supervision of a child placing agency upon payment by the agency of the tuition and  
7634 fees required under Subsection (2).

7635 Section 84. Section **62A-4a-1002** is amended to read:

7636 **62A-4a-1002. Definitions.**

7637 As used in this part:

7638 (1) (a) Except as provided in Subsection (1)(b), "severe type of child abuse or neglect"  
7639 means:

7640 (i) if committed by a person 18 years of age or older:

7641 (A) chronic abuse;

7642 (B) severe abuse;

7643 (C) sexual abuse;

7644 (D) sexual exploitation;

7645 (E) abandonment;

7646 (F) chronic neglect; or

7647 (G) severe neglect; or

7648 (ii) if committed by a person under the age of 18:

7649 (A) serious physical injury, as defined in Subsection 76-5-109(1), to another child  
7650 which indicates a significant risk to other children; or

7651 (B) sexual behavior with or upon another child which indicates a significant risk to  
7652 other children.

7653 (b) "Severe type of child abuse or neglect" does not include:

- 7654 (i) the use of reasonable and necessary physical restraint by an educator in accordance  
7655 with Subsection [~~53A-11-802~~] 53G-8-302(2) or Section 76-2-401;
- 7656 (ii) a person's conduct that:
- 7657 (A) is justified under Section 76-2-401; or
- 7658 (B) constitutes the use of reasonable and necessary physical restraint or force in  
7659 self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or  
7660 other dangerous object in the possession or under the control of a child or to protect the child or  
7661 another person from physical injury; or
- 7662 (iii) a health care decision made for a child by the child's parent or guardian, unless,  
7663 subject to Subsection 62A-4a-1004(2), the state or other party to the proceeding shows, by  
7664 clear and convincing evidence, that the health care decision is not reasonable and informed.
- 7665 (2) "Significant risk" means a risk of harm that is determined to be significant in  
7666 accordance with risk assessment tools and rules established by the division that focus on:
- 7667 (a) age;
- 7668 (b) social factors;
- 7669 (c) emotional factors;
- 7670 (d) sexual factors;
- 7671 (e) intellectual factors;
- 7672 (f) family risk factors; and
- 7673 (g) other related considerations.
- 7674 Section 85. Section **62A-5a-102** is amended to read:
- 7675 **62A-5a-102. Definitions.**
- 7676 As used in this chapter:
- 7677 (1) "Council" means the Coordinating Council for Persons with Disabilities.
- 7678 (2) "State agencies" means:
- 7679 (a) the Division of Services for People with Disabilities and the Division of Substance  
7680 Abuse and Mental Health, within the Department of Human Services;
- 7681 (b) the Division of Health Care Financing within the Department of Health;
- 7682 (c) family health services programs established under Title 26, Chapter 10, Family  
7683 Health Services, operated by the Department of Health;
- 7684 (d) the Utah State Office of Rehabilitation created in Section 35A-1-202; and

7685 (e) special education programs operated by the State Board of Education and local  
7686 school districts under [~~Title 53A, Chapter 15, Part 3, Education of Children with Disabilities~~]  
7687 Title 53E, Chapter 7, Part 2, Special Education Program.

7688 Section 86. Section **62A-5a-105** is amended to read:

7689 **62A-5a-105. Coordination of services for school-age children.**

7690 (1) Within appropriations authorized by the Legislature, the state director of special  
7691 education, the director of the Utah State Office of Rehabilitation created in Section [35A-1-202](#),  
7692 the executive director of the Department of Human Services, and the family health services  
7693 director within the Department of Health, or their designees, and the affected local school  
7694 district shall cooperatively develop a single coordinated education program, treatment services,  
7695 and individual and family supports for students entitled to a free appropriate education under  
7696 [~~Title 53A, Chapter 15, Part 3, Education of Children with Disabilities~~] Title 53E, Chapter 7,  
7697 Part 2, Special Education Program, who also require services from the Department of Human  
7698 Services, the Department of Health, or the Utah State Office of Rehabilitation.

7699 (2) Distribution of costs for services and supports described in Subsection (1) shall be  
7700 determined through a process established by the State Board of Education, the Department of  
7701 Human Services, and the Department of Health.

7702 Section 87. Section **62A-15-1101** is amended to read:

7703 **62A-15-1101. Suicide prevention -- Reporting requirements.**

7704 (1) As used in the section:

7705 (a) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)  
7706 within the Department of Public Safety.

7707 (b) "Division" means the Division of Substance Abuse and Mental Health.

7708 (c) "Intervention" means an effort to prevent a person from attempting suicide.

7709 (d) "Postvention" means mental health intervention after a suicide attempt or death to  
7710 prevent or contain contagion.

7711 (e) "State suicide prevention coordinator" means an individual designated by the  
7712 division as described in Subsections (2) and (3).

7713 (2) The division shall appoint a state suicide prevention coordinator to administer a  
7714 state suicide prevention program composed of suicide prevention, intervention, and postvention  
7715 programs, services, and efforts.

- 7716 (3) The state suicide prevention program may include the following components:
- 7717 (a) delivery of resources, tools, and training to community-based coalitions;
- 7718 (b) evidence-based suicide risk assessment tools and training;
- 7719 (c) town hall meetings for building community-based suicide prevention strategies;
- 7720 (d) suicide prevention gatekeeper training;
- 7721 (e) training to identify warning signs and to manage an at-risk individual's crisis;
- 7722 (f) evidence-based intervention training;
- 7723 (g) intervention skills training; and
- 7724 (h) postvention training.
- 7725 (4) The state suicide prevention coordinator shall coordinate with the following to
- 7726 gather statistics, among other duties:
- 7727 (a) local mental health and substance abuse authorities;
- 7728 (b) the State Board of Education, including the public education suicide prevention
- 7729 coordinator described in Section [~~53A-15-1301~~] [53G-9-702](#);
- 7730 (c) the Department of Health;
- 7731 (d) health care providers, including emergency rooms;
- 7732 (e) federal agencies, including the Federal Bureau of Investigation;
- 7733 (f) other unbiased sources; and
- 7734 (g) other public health suicide prevention efforts.
- 7735 (5) The state suicide prevention coordinator shall provide a written report to the Health
- 7736 and Human Services Interim Committee, by the October meeting every year, on:
- 7737 (a) implementation of the state suicide prevention program, as described in Subsections
- 7738 (2) and (3);
- 7739 (b) data measuring the effectiveness of each component of the state suicide prevention
- 7740 program;
- 7741 (c) funds appropriated for each component of the state suicide prevention program; and
- 7742 (d) five-year trends of suicides in Utah, including subgroups of youths and adults and
- 7743 other subgroups identified by the state suicide prevention coordinator.
- 7744 (6) The state suicide prevention coordinator shall report to the Legislature's:
- 7745 (a) Education Interim Committee, by the October 2015 meeting, jointly with the State
- 7746 Board of Education, on the coordination of suicide prevention programs and efforts with the

7747 State Board of Education and the public education suicide prevention coordinator as described  
7748 in Section [~~53A-15-1301~~] [53G-9-702](#); and

7749 (b) Health and Human Services Interim Committee, by the October 2017 meeting,  
7750 statistics on the number of annual suicides in Utah, including how many suicides were  
7751 committed with a gun, and if so:

7752 (i) where the victim procured the gun and if the gun was legally possessed by the  
7753 victim;

7754 (ii) if the victim purchased the gun legally and whether a background check was  
7755 performed before the victim purchased the gun;

7756 (iii) whether the victim had a history of mental illness or was under the treatment of a  
7757 mental health professional;

7758 (iv) whether any medication or illegal drugs or alcohol were also involved in the  
7759 suicide; and

7760 (v) if the suicide incident also involved the injury or death of another individual,  
7761 whether the shooter had a history of domestic violence.

7762 (7) The state suicide prevention coordinator shall consult with the bureau to implement  
7763 and manage the operation of a firearm safety program, as described in Subsection  
7764 [53-10-202\(18\)](#), Section [53-10-202.1](#), and the Suicide Prevention Education Program described  
7765 in Section [53-10-202.3](#).

7766 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7767 division shall make rules:

7768 (a) governing the implementation of the state suicide prevention program, consistent  
7769 with this section; and

7770 (b) in conjunction with the bureau, defining the criteria for employers to apply for  
7771 grants under the Suicide Prevention Education Program in Section [53-10-202.3](#), which shall  
7772 include:

7773 (i) attendance at a suicide prevention education course; and

7774 (ii) display of posters and distribution of the firearm safety brochures or packets  
7775 created in Subsection [53-10-202\(18\)\(a\)\(iii\)](#), but does not require the distribution of a  
7776 cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable  
7777 safety mechanism.

7778 (9) The state suicide prevention coordinator shall present to the Health and Human  
7779 Services Interim Committee, no later than November 2017, a 10-year statewide suicide  
7780 prevention plan.

7781 (10) As funding by the Legislature allows, the state suicide prevention coordinator  
7782 shall award grants, not to exceed a total of \$100,000 per fiscal year, to suicide prevention  
7783 programs that focus on the needs of children who have been served by the Division of Juvenile  
7784 Justice Services.

7785 Section 88. Section **63A-3-106** is amended to read:

7786 **63A-3-106. Per diem rates for board members.**

7787 (1) As used in this section and Section **63A-3-107**:

7788 (a) "Board" means a board, commission, council, committee, task force, or similar  
7789 body established to perform a governmental function.

7790 (b) "Board member" means a person appointed or designated by statute to serve on a  
7791 board.

7792 (c) "Executive branch" means an agency within the executive branch of state  
7793 government.

7794 (d) (i) "Governmental entity" has the same meaning, except as provided in Subsection  
7795 (1)(d)(ii), as provided under Section **63G-2-103**.

7796 (ii) "Governmental entity" does not include an association as defined in Section  
7797 [~~53A-16-101~~] **53G-7-1101**.

7798 (e) "Higher education" means a state institution of higher education, as defined under  
7799 Section **53B-1-102**.

7800 (f) "Officer" means a person who is elected or appointed to an office or position within  
7801 a governmental entity.

7802 (g) "Official meeting" means a meeting of a board that is called in accordance with  
7803 statute.

7804 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
7805 subject to approval by the executive director, the director of the Division of Finance shall make  
7806 rules establishing per diem rates to defray subsistence costs for a board member's attendance at  
7807 an official meeting.

7808 (3) Unless otherwise provided by statute, a per diem rate established under Subsection

- 7809 (2) is applicable to a board member who serves:
- 7810 (a) within the executive branch, except as provided under Subsection (3)(b);
- 7811 (b) within higher education, unless higher education pays the costs of the per diem;
- 7812 (c) on a board that is:
- 7813 (i) not included under Subsection (3)(a) or (b); and
- 7814 (ii) created by a statute that adopts the per diem rates by reference to:
- 7815 (A) this section; and
- 7816 (B) the rule authorized by this section; and
- 7817 (d) within a government entity that is not included under Subsection (3)(a), if the
- 7818 government entity adopts the per diem rates by reference to:
- 7819 (i) this section; or
- 7820 (ii) the rule establishing the per diem rates.
- 7821 (4) (a) Unless otherwise provided by statute, a board member who is not a legislator
- 7822 may receive per diem under this section and travel expenses under Section [63A-3-107](#) if the per
- 7823 diem and travel expenses are incurred by the board member for attendance at an official
- 7824 meeting.
- 7825 (b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or
- 7826 travel expenses under this Subsection (4) if the board member is being paid by a governmental
- 7827 entity while performing the board member's service on the board.
- 7828 (5) A board member may decline to receive per diem for the board member's service.
- 7829 (6) Compensation and expenses of a board member who is a legislator are governed by
- 7830 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- 7831 Section 89. Section [63A-3-402](#) is amended to read:
- 7832 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**
- 7833 **Records disclosure -- Exceptions.**
- 7834 (1) There is created the Utah Public Finance Website to be administered by the
- 7835 Division of Finance with the technical assistance of the Department of Technology Services.
- 7836 (2) The Utah Public Finance Website shall:
- 7837 (a) permit Utah taxpayers to:
- 7838 (i) view, understand, and track the use of taxpayer dollars by making public financial
- 7839 information available on the Internet for participating state entities, independent entities, and

7840 participating local entities, using the Utah Public Finance Website; and  
7841 (ii) link to websites administered by participating local entities or independent entities  
7842 that do not use the Utah Public Finance Website for the purpose of providing participating  
7843 local entities' or independent entities' public financial information as required by this part and  
7844 by rule under Section [63A-3-404](#);

7845 (b) allow a person who has Internet access to use the website without paying a fee;  
7846 (c) allow the public to search public financial information on the Utah Public Finance  
7847 Website using criteria established by the board;

7848 (d) provide access to financial reports, financial audits, budgets, or other financial  
7849 documents that are used to allocate, appropriate, spend, and account for government funds, as  
7850 may be established by rule under Section [63A-3-404](#);

7851 (e) have a unique and simplified website address;  
7852 (f) be directly accessible via a link from the main page of the official state website;  
7853 (g) include other links, features, or functionality that will assist the public in obtaining  
7854 and reviewing public financial information, as may be established by rule under Section  
7855 [63A-3-404](#); and

7856 (h) include a link to school report cards published on the State Board of Education's  
7857 website under Section [~~53A-1-1112~~] [53E-5-211](#).

7858 (3) The division shall:

7859 (a) establish and maintain the website, including the provision of equipment, resources,  
7860 and personnel as necessary;

7861 (b) maintain an archive of all information posted to the website;

7862 (c) coordinate and process the receipt and posting of public financial information from  
7863 participating state entities;

7864 (d) coordinate and regulate the posting of public financial information by participating  
7865 local entities and independent entities; and

7866 (e) provide staff support for the advisory committee.

7867 (4) (a) A participating state entity and each independent entity shall permit the public  
7868 to view the entity's public financial information via the website, beginning with information  
7869 that is generated not later than the fiscal year that begins July 1, 2008, except that public  
7870 financial information for an:

7871 (i) institution of higher education shall be provided beginning with information  
7872 generated for the fiscal year beginning July 1, 2009; and

7873 (ii) independent entity shall be provided beginning with information generated for the  
7874 entity's fiscal year beginning in 2014.

7875 (b) No later than May 15, 2009, the website shall:

7876 (i) be operational; and

7877 (ii) permit public access to participating state entities' public financial information,  
7878 except as provided in Subsections (4)(c) and (d).

7879 (c) An institution of higher education that is a participating state entity shall submit the  
7880 entity's public financial information at a time allowing for inclusion on the website no later  
7881 than May 15, 2010.

7882 (d) No later than the first full quarter after July 1, 2014, an independent entity shall  
7883 submit the entity's public financial information for inclusion on the Utah Public Finance  
7884 Website or via a link to its own website on the Utah Public Finance Website.

7885 (5) (a) The Utah Educational Savings Plan, created in Section [53B-8a-103](#), shall  
7886 provide the following financial information to the division for posting on the Utah Public  
7887 Finance Website:

7888 (i) administrative fund expense transactions from its general ledger accounting system;  
7889 and

7890 (ii) employee compensation information.

7891 (b) The plan is not required to submit other financial information to the division,  
7892 including:

7893 (i) revenue transactions;

7894 (ii) account owner transactions; and

7895 (iii) fiduciary or commercial information, as defined in Section [53B-12-102](#).

7896 (6) (a) The following independent entities shall each provide administrative expense  
7897 transactions from its general ledger accounting system and employee compensation  
7898 information to the division for posting on the Utah Public Finance Website or via a link to a  
7899 website administered by the independent entity:

7900 (i) the Utah Capital Investment Corporation, created in Section [63N-6-301](#);

7901 (ii) the Utah Housing Corporation, created in Section [63H-8-201](#); and

7902 (iii) the School and Institutional Trust Lands Administration, created in Section  
7903 53C-1-201.

7904 (b) For purposes of this part, an independent entity described in Subsection (6)(a) is not  
7905 required to submit to the division, or provide a link to, other financial information, including:

7906 (i) revenue transactions of a fund or account created in its enabling statute;  
7907 (ii) fiduciary or commercial information related to any subject if the disclosure of the  
7908 information:

7909 (A) would conflict with fiduciary obligations; or

7910 (B) is prohibited by insider trading provisions;

7911 (iii) information of a commercial nature, including information related to:

7912 (A) account owners, borrowers, and dependents;

7913 (B) demographic data;

7914 (C) contracts and related payments;

7915 (D) negotiations;

7916 (E) proposals or bids;

7917 (F) investments;

7918 (G) the investment and management of funds;

7919 (H) fees and charges;

7920 (I) plan and program design;

7921 (J) investment options and underlying investments offered to account owners;

7922 (K) marketing and outreach efforts;

7923 (L) lending criteria;

7924 (M) the structure and terms of bonding; and

7925 (N) financial plans or strategies; and

7926 (iv) information protected from public disclosure by federal law.

7927 (7) (a) As used in this Subsection (7):

7928 (i) "Local education agency" means a school district or a charter school.

7929 (ii) "New school building project" means:

7930 (A) the construction of a school or school facility that did not previously exist in a local  
7931 education agency; or

7932 (B) the lease or purchase of an existing building, by a local education agency, to be

7933 used as a school or school facility.

7934 (iii) "School facility" means a facility, including a pool, theater, stadium, or  
7935 maintenance building, that is built, leased, acquired, or remodeled by a local education agency  
7936 regardless of whether the facility is open to the public.

7937 (iv) "Significant school remodel" means a construction project undertaken by a local  
7938 education agency with a project cost equal to or greater than \$2,000,000, including:

7939 (A) the upgrading, changing, alteration, refurbishment, modification, or complete  
7940 substitution of an existing school or school facility in a local education agency; or

7941 (B) the addition of a school facility.

7942 (b) For each new school building project or significant school remodel, the local  
7943 education agency shall:

7944 (i) prepare an annual school plant capital outlay report; and

7945 (ii) submit the report:

7946 (A) to the division for publication on the Utah Public Finance Website; and

7947 (B) in a format, including any raw data or electronic formatting, prescribed by  
7948 applicable division policy.

7949 (c) The local education agency shall include in the capital outlay report described in  
7950 Subsection (7)(b)(i) the following information as applicable to each new school building  
7951 project or significant school remodel:

7952 (i) the name and location of the new school building project or significant school  
7953 remodel;

7954 (ii) construction and design costs, including:

7955 (A) the purchase price or lease terms of any real property acquired or leased for the  
7956 project or remodel;

7957 (B) facility construction;

7958 (C) facility and landscape design;

7959 (D) applicable impact fees; and

7960 (E) furnishings and equipment;

7961 (iii) the gross square footage of the project or remodel;

7962 (iv) the year construction was completed; and

7963 (v) the final student capacity of the new school building project or, for a significant

7964 school remodel, the increase or decrease in student capacity created by the remodel.

7965 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),  
7966 the local education agency shall report the actual cost, fee, or other expense.

7967 (ii) The division may require that a local education agency provide further itemized  
7968 data on information listed in Subsection (7)(c).

7969 (e) (i) No later than May 15, 2015, a local education agency shall provide the division a  
7970 school plant capital outlay report for each new school building project and significant school  
7971 remodel completed on or after July 1, 2004, and before May 13, 2014.

7972 (ii) For a new school building project or significant school remodel completed after  
7973 May 13, 2014, the local education agency shall provide the school plant capital outlay report  
7974 described in this Subsection (7) to the division annually by a date designated by the division.

7975 (8) A person who negligently discloses a record that is classified as private, protected,  
7976 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is  
7977 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed  
7978 solely as a result of the preparation or publication of the Utah Public Finance Website.

7979 Section 90. Section **63A-4-204** is amended to read:

7980 **63A-4-204. School district participation in Risk Management Fund.**

7981 (1) (a) For the purpose of this section, action by a public school district shall be taken  
7982 upon resolution by a majority of the members of the school district's board of education.

7983 (b) (i) Upon approval by the state risk manager and the board of education of the  
7984 school district, a public school district may participate in the Risk Management Fund and may  
7985 permit a foundation established under Section [~~53A-4-205~~] [53E-3-403](#) to participate in the  
7986 Risk Management Fund.

7987 (ii) Upon approval by the state risk manager and the State Board of Education, a state  
7988 public education foundation may participate in the Risk Management Fund.

7989 (c) Subject to any cancellation or other applicable coverage provisions, either the state  
7990 risk manager or the public school district may terminate participation in the fund.

7991 (2) The state risk manager shall contract for all insurance, legal, loss adjustment,  
7992 consulting, loss control, safety, and other related services necessary to support the insurance  
7993 program provided to a participating public school district, except that all supporting legal  
7994 services are subject to the prior approval of the state attorney general.

7995 (3) (a) The state risk manager shall treat each participating public school district as a  
7996 state agency when participating in the Risk Management Fund.

7997 (b) Each public school district participating in the fund shall comply with the  
7998 provisions of this part that affect state agencies.

7999 (4) (a) Each year, the risk manager shall prepare, in writing, the information required  
8000 by Subsection (4)(b) regarding the coverage against legal liability provided a school district  
8001 employee of this state:

8002 (i) by the Risk Management Fund;

8003 (ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

8004 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and  
8005 Employees Act.

8006 (b) (i) The information described in Subsection (4)(a) shall include:

8007 (A) the eligibility requirements, if any, to receive the coverage;

8008 (B) the basic nature of the coverage for a school district employee, including what is  
8009 not covered; and

8010 (C) whether the coverage is primary or in excess of any other coverage the risk  
8011 manager knows is commonly available to a school district employee in this state.

8012 (ii) The information described in Subsection (4)(a) may include:

8013 (A) comparisons the risk manager considers beneficial to a school district employee  
8014 between:

8015 (I) the coverage described in Subsection (4)(a); and

8016 (II) other coverage the risk manager knows is commonly available to a school district  
8017 employee in this state; and

8018 (B) any other information the risk manager considers appropriate.

8019 (c) By no later than July 1 of each year, the risk manager shall provide the information  
8020 prepared under this Subsection (4) to each school district that participates in the Risk  
8021 Management Fund.

8022 (d) A school district that participates in the Risk Management Fund shall provide a  
8023 copy of the information described in Subsection (4)(c) to each school district employee within  
8024 the school district no later than the first day of each school year.

8025 (e) If a school district hires an employee after the first day of the school year, no later

8026 than 10 days after the day on which the employee is hired, the school district shall provide the  
8027 information described in Subsection (4)(c) to the employee.

8028 Section 91. Section **63A-4-204.5** is amended to read:

8029 **63A-4-204.5. Charter school participation in Risk Management Fund.**

8030 (1) A charter school established under the authority of [~~Title 53A, Chapter 1a, Part 5;~~  
8031 ~~The Utah Charter Schools Act~~] Title 53G, Chapter 5, Charter Schools, may participate in the  
8032 Risk Management Fund upon the approval of the state risk manager and the governing body of  
8033 the charter school.

8034 (2) (a) For purposes of administration, the state risk manager shall treat each charter  
8035 school participating in the fund as a state agency.

8036 (b) Each charter school participating in the fund shall comply with the provisions of  
8037 this part that affect state agencies.

8038 (3) (a) Each year, the risk manager shall prepare, in writing, the information required  
8039 by Subsection (3)(b) regarding the coverage against legal liability provided a charter school  
8040 employee of this state:

8041 (i) by the Risk Management Fund;

8042 (ii) under Title 63G, Chapter 7, Utah Governmental Immunity Act of Utah; and

8043 (iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and  
8044 Employees Act.

8045 (b) (i) The information described in Subsection (3)(a) shall include:

8046 (A) the eligibility requirements, if any, to receive the coverage;

8047 (B) the basic nature of the coverage for a charter school employee, including what is  
8048 not covered; and

8049 (C) whether the coverage is primary or in excess of any other coverage the risk  
8050 manager knows is commonly available to a charter school employee in this state.

8051 (ii) The information described in Subsection (3)(a) may include:

8052 (A) comparisons the risk manager considers beneficial to a charter school employee  
8053 between:

8054 (I) the coverage described in Subsection (3)(a); and

8055 (II) other coverage the risk manager knows is commonly available to a charter school  
8056 employee in this state; and

8057 (B) any other information the risk manager considers appropriate.

8058 (c) By no later than July 1 of each year, the risk manager shall provide the information  
8059 prepared under this Subsection (3) to each charter school that participates in the Risk  
8060 Management Fund.

8061 (d) A charter school that participates in the Risk Management Fund shall provide a  
8062 copy of the information described in Subsection (3)(c) to each charter school employee within  
8063 the charter school no later than the first day of each school year.

8064 (e) If a charter school hires an employee after the first day of the school year, no later  
8065 than 10 days after the day on which the employee is hired, the charter school shall provide the  
8066 information described in Subsection (3)(c) to the employee.

8067 Section 92. Section **63G-2-103** is amended to read:

8068 **63G-2-103. Definitions.**

8069 As used in this chapter:

8070 (1) "Audit" means:

8071 (a) a systematic examination of financial, management, program, and related records  
8072 for the purpose of determining the fair presentation of financial statements, adequacy of  
8073 internal controls, or compliance with laws and regulations; or

8074 (b) a systematic examination of program procedures and operations for the purpose of  
8075 determining their effectiveness, economy, efficiency, and compliance with statutes and  
8076 regulations.

8077 (2) "Chronological logs" mean the regular and customary summary records of law  
8078 enforcement agencies and other public safety agencies that show:

8079 (a) the time and general nature of police, fire, and paramedic calls made to the agency;  
8080 and

8081 (b) any arrests or jail bookings made by the agency.

8082 (3) "Classification," "classify," and their derivative forms mean determining whether a  
8083 record series, record, or information within a record is public, private, controlled, protected, or  
8084 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

8085 (4) (a) "Computer program" means:

8086 (i) a series of instructions or statements that permit the functioning of a computer  
8087 system in a manner designed to provide storage, retrieval, and manipulation of data from the

8088 computer system; and  
8089 (ii) any associated documentation and source material that explain how to operate the  
8090 computer program.  
8091 (b) "Computer program" does not mean:  
8092 (i) the original data, including numbers, text, voice, graphics, and images;  
8093 (ii) analysis, compilation, and other manipulated forms of the original data produced by  
8094 use of the program; or  
8095 (iii) the mathematical or statistical formulas, excluding the underlying mathematical  
8096 algorithms contained in the program, that would be used if the manipulated forms of the  
8097 original data were to be produced manually.  
8098 (5) (a) "Contractor" means:  
8099 (i) any person who contracts with a governmental entity to provide goods or services  
8100 directly to a governmental entity; or  
8101 (ii) any private, nonprofit organization that receives funds from a governmental entity.  
8102 (b) "Contractor" does not mean a private provider.  
8103 (6) "Controlled record" means a record containing data on individuals that is controlled  
8104 as provided by Section [63G-2-304](#).  
8105 (7) "Designation," "designate," and their derivative forms mean indicating, based on a  
8106 governmental entity's familiarity with a record series or based on a governmental entity's  
8107 review of a reasonable sample of a record series, the primary classification that a majority of  
8108 records in a record series would be given if classified and the classification that other records  
8109 typically present in the record series would be given if classified.  
8110 (8) "Elected official" means each person elected to a state office, county office,  
8111 municipal office, school board or school district office, local district office, or special service  
8112 district office, but does not include judges.  
8113 (9) "Explosive" means a chemical compound, device, or mixture:  
8114 (a) commonly used or intended for the purpose of producing an explosion; and  
8115 (b) that contains oxidizing or combustive units or other ingredients in proportions,  
8116 quantities, or packing so that:  
8117 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the  
8118 compound or mixture may cause a sudden generation of highly heated gases; and

- 8119 (ii) the resultant gaseous pressures are capable of:  
8120 (A) producing destructive effects on contiguous objects; or  
8121 (B) causing death or serious bodily injury.
- 8122 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 8123 (11) (a) "Governmental entity" means:  
8124 (i) executive department agencies of the state, the offices of the governor, lieutenant  
8125 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,  
8126 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
8127 Board of Education, the State Board of Regents, and the State Archives;  
8128 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
8129 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
8130 committees, except any political party, group, caucus, or rules or sifting committee of the  
8131 Legislature;  
8132 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar  
8133 administrative units in the judicial branch;  
8134 (iv) any state-funded institution of higher education or public education; or  
8135 (v) any political subdivision of the state, but, if a political subdivision has adopted an  
8136 ordinance or a policy relating to information practices pursuant to Section [63G-2-701](#), this  
8137 chapter shall apply to the political subdivision to the extent specified in Section [63G-2-701](#) or  
8138 as specified in any other section of this chapter that specifically refers to political subdivisions.
- 8139 (b) "Governmental entity" also means:  
8140 (i) every office, agency, board, bureau, committee, department, advisory board, or  
8141 commission of an entity listed in Subsection (11)(a) that is funded or established by the  
8142 government to carry out the public's business;  
8143 (ii) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative  
8144 undertaking;  
8145 (iii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation; and  
8146 (iv) an association as defined in Section [\[53A-1-160\]](#) [53G-7-1101](#).  
8147 (c) "Governmental entity" does not include the Utah Educational Savings Plan created  
8148 in Section [53B-8a-103](#).
- 8149 (12) "Gross compensation" means every form of remuneration payable for a given

8150 period to an individual for services provided including salaries, commissions, vacation pay,  
8151 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any  
8152 similar benefit received from the individual's employer.

8153 (13) "Individual" means a human being.

8154 (14) (a) "Initial contact report" means an initial written or recorded report, however  
8155 titled, prepared by peace officers engaged in public patrol or response duties describing official  
8156 actions initially taken in response to either a public complaint about or the discovery of an  
8157 apparent violation of law, which report may describe:

8158 (i) the date, time, location, and nature of the complaint, the incident, or offense;

8159 (ii) names of victims;

8160 (iii) the nature or general scope of the agency's initial actions taken in response to the  
8161 incident;

8162 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

8163 (v) the name, address, and other identifying information about any person arrested or  
8164 charged in connection with the incident; or

8165 (vi) the identity of the public safety personnel, except undercover personnel, or  
8166 prosecuting attorney involved in responding to the initial incident.

8167 (b) Initial contact reports do not include follow-up or investigative reports prepared  
8168 after the initial contact report. However, if the information specified in Subsection (14)(a)  
8169 appears in follow-up or investigative reports, it may only be treated confidentially if it is  
8170 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

8171 (15) "Legislative body" means the Legislature.

8172 (16) "Notice of compliance" means a statement confirming that a governmental entity  
8173 has complied with a records committee order.

8174 (17) "Person" means:

8175 (a) an individual;

8176 (b) a nonprofit or profit corporation;

8177 (c) a partnership;

8178 (d) a sole proprietorship;

8179 (e) other type of business organization; or

8180 (f) any combination acting in concert with one another.

8181 (18) "Private provider" means any person who contracts with a governmental entity to  
8182 provide services directly to the public.

8183 (19) "Private record" means a record containing data on individuals that is private as  
8184 provided by Section 63G-2-302.

8185 (20) "Protected record" means a record that is classified protected as provided by  
8186 Section 63G-2-305.

8187 (21) "Public record" means a record that is not private, controlled, or protected and that  
8188 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

8189 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,  
8190 card, tape, recording, electronic data, or other documentary material regardless of physical form  
8191 or characteristics:

8192 (i) that is prepared, owned, received, or retained by a governmental entity or political  
8193 subdivision; and

8194 (ii) where all of the information in the original is reproducible by photocopy or other  
8195 mechanical or electronic means.

8196 (b) "Record" does not mean:

8197 (i) a personal note or personal communication prepared or received by an employee or  
8198 officer of a governmental entity:

8199 (A) in a capacity other than the employee's or officer's governmental capacity; or

8200 (B) that is unrelated to the conduct of the public's business;

8201 (ii) a temporary draft or similar material prepared for the originator's personal use or  
8202 prepared by the originator for the personal use of an individual for whom the originator is  
8203 working;

8204 (iii) material that is legally owned by an individual in the individual's private capacity;

8205 (iv) material to which access is limited by the laws of copyright or patent unless the  
8206 copyright or patent is owned by a governmental entity or political subdivision;

8207 (v) proprietary software;

8208 (vi) junk mail or a commercial publication received by a governmental entity or an  
8209 official or employee of a governmental entity;

8210 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections  
8211 of a library open to the public;

8212 (viii) material that is cataloged, indexed, or inventoried and contained in the collections  
8213 of a library open to the public, regardless of physical form or characteristics of the material;

8214 (ix) a daily calendar or other personal note prepared by the originator for the  
8215 originator's personal use or for the personal use of an individual for whom the originator is  
8216 working;

8217 (x) a computer program that is developed or purchased by or for any governmental  
8218 entity for its own use;

8219 (xi) a note or internal memorandum prepared as part of the deliberative process by:

8220 (A) a member of the judiciary;

8221 (B) an administrative law judge;

8222 (C) a member of the Board of Pardons and Parole; or

8223 (D) a member of any other body, other than an association or appeals panel as defined  
8224 in Section [~~53A-1-1601~~] [53G-7-1101](#), charged by law with performing a quasi-judicial  
8225 function;

8226 (xii) a telephone number or similar code used to access a mobile communication  
8227 device that is used by an employee or officer of a governmental entity, provided that the  
8228 employee or officer of the governmental entity has designated at least one business telephone  
8229 number that is a public record as provided in Section [63G-2-301](#);

8230 (xiii) information provided by the Public Employees' Benefit and Insurance Program,  
8231 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be  
8232 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);

8233 (xiv) information that an owner of unimproved property provides to a local entity as  
8234 provided in Section [11-42-205](#); or

8235 (xv) a video or audio recording of an interview, or a transcript of the video or audio  
8236 recording, that is conducted at a Children's Justice Center established under Section [67-5b-102](#).

8237 (23) "Record series" means a group of records that may be treated as a unit for  
8238 purposes of designation, description, management, or disposition.

8239 (24) "Records committee" means the State Records Committee created in Section  
8240 [63G-2-501](#).

8241 (25) "Records officer" means the individual appointed by the chief administrative  
8242 officer of each governmental entity, or the political subdivision to work with state archives in

8243 the care, maintenance, scheduling, designation, classification, disposal, and preservation of  
8244 records.

8245 (26) "Schedule," "scheduling," and their derivative forms mean the process of  
8246 specifying the length of time each record series should be retained by a governmental entity for  
8247 administrative, legal, fiscal, or historical purposes and when each record series should be  
8248 transferred to the state archives or destroyed.

8249 (27) "Sponsored research" means research, training, and other sponsored activities as  
8250 defined by the federal Executive Office of the President, Office of Management and Budget:

8251 (a) conducted:

8252 (i) by an institution within the state system of higher education defined in Section  
8253 [53B-1-102](#); and

8254 (ii) through an office responsible for sponsored projects or programs; and

8255 (b) funded or otherwise supported by an external:

8256 (i) person that is not created or controlled by the institution within the state system of  
8257 higher education; or

8258 (ii) federal, state, or local governmental entity.

8259 (28) "State archives" means the Division of Archives and Records Service created in  
8260 Section [63A-12-101](#).

8261 (29) "State archivist" means the director of the state archives.

8262 (30) "Summary data" means statistical records and compilations that contain data  
8263 derived from private, controlled, or protected information but that do not disclose private,  
8264 controlled, or protected information.

8265 Section 93. Section **63G-2-301** is amended to read:

8266 **63G-2-301. Public records.**

8267 (1) As used in this section:

8268 (a) "Business address" means a single address of a governmental agency designated for  
8269 the public to contact an employee or officer of the governmental agency.

8270 (b) "Business email address" means a single email address of a governmental agency  
8271 designated for the public to contact an employee or officer of the governmental agency.

8272 (c) "Business telephone number" means a single telephone number of a governmental  
8273 agency designated for the public to contact an employee or officer of the governmental agency.

8274 (2) The following records are public except to the extent they contain information  
8275 expressly permitted to be treated confidentially under the provisions of Subsections  
8276 [63G-2-201](#)(3)(b) and (6)(a):

8277 (a) laws;

8278 (b) the name, gender, gross compensation, job title, job description, business address,  
8279 business email address, business telephone number, number of hours worked per pay period,  
8280 dates of employment, and relevant education, previous employment, and similar job  
8281 qualifications of a current or former employee or officer of the governmental entity, excluding:

8282 (i) undercover law enforcement personnel; and

8283 (ii) investigative personnel if disclosure could reasonably be expected to impair the  
8284 effectiveness of investigations or endanger any individual's safety;

8285 (c) final opinions, including concurring and dissenting opinions, and orders that are  
8286 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except  
8287 that if the proceedings were properly closed to the public, the opinion and order may be  
8288 withheld to the extent that they contain information that is private, controlled, or protected;

8289 (d) final interpretations of statutes or rules by a governmental entity unless classified as  
8290 protected as provided in Subsection [63G-2-305](#)(17) or (18);

8291 (e) information contained in or compiled from a transcript, minutes, or report of the  
8292 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open  
8293 and Public Meetings Act, including the records of all votes of each member of the  
8294 governmental entity;

8295 (f) judicial records unless a court orders the records to be restricted under the rules of  
8296 civil or criminal procedure or unless the records are private under this chapter;

8297 (g) unless otherwise classified as private under Section [63G-2-303](#), records or parts of  
8298 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning  
8299 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust  
8300 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or  
8301 other governmental entities that give public notice of:

8302 (i) titles or encumbrances to real property;

8303 (ii) restrictions on the use of real property;

8304 (iii) the capacity of persons to take or convey title to real property; or

- 8305 (iv) tax status for real and personal property;
- 8306 (h) records of the Department of Commerce that evidence incorporations, mergers,  
8307 name changes, and uniform commercial code filings;
- 8308 (i) data on individuals that would otherwise be private under this chapter if the  
8309 individual who is the subject of the record has given the governmental entity written  
8310 permission to make the records available to the public;
- 8311 (j) documentation of the compensation that a governmental entity pays to a contractor  
8312 or private provider;
- 8313 (k) summary data;
- 8314 (l) voter registration records, including an individual's voting history, except for a voter  
8315 registration record or those parts of a voter registration record that are classified as private  
8316 under Subsection [63G-2-302\(1\)\(j\)](#) or (k);
- 8317 (m) for an elected official, as defined in Section [11-47-102](#), a telephone number, if  
8318 available, and email address, if available, where that elected official may be reached as required  
8319 in Title 11, Chapter 47, Access to Elected Officials;
- 8320 (n) for a school community council member, a telephone number, if available, and  
8321 email address, if available, where that elected official may be reached directly as required in  
8322 Section [~~53A-1a-108.1~~] [53G-7-1203](#);
- 8323 (o) annual audited financial statements of the Utah Educational Savings Plan described  
8324 in Section [53B-8a-111](#); and
- 8325 (p) an initiative packet, as defined in Section [20A-7-101](#), and a referendum packet, as  
8326 defined in Section [20A-7-101](#), after the packet is submitted to a county clerk.
- 8327 (3) The following records are normally public, but to the extent that a record is  
8328 expressly exempt from disclosure, access may be restricted under Subsection [63G-2-201\(3\)\(b\)](#),  
8329 Section [63G-2-302](#), [63G-2-304](#), or [63G-2-305](#):
- 8330 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 8331 (b) records documenting a contractor's or private provider's compliance with the terms  
8332 of a contract with a governmental entity;
- 8333 (c) records documenting the services provided by a contractor or a private provider to  
8334 the extent the records would be public if prepared by the governmental entity;
- 8335 (d) contracts entered into by a governmental entity;

8336 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds  
8337 by a governmental entity;

8338 (f) records relating to government assistance or incentives publicly disclosed,  
8339 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a  
8340 business in Utah, except as provided in Subsection [63G-2-305\(35\)](#);

8341 (g) chronological logs and initial contact reports;

8342 (h) correspondence by and with a governmental entity in which the governmental entity  
8343 determines or states an opinion upon the rights of the state, a political subdivision, the public,  
8344 or any person;

8345 (i) empirical data contained in drafts if:

8346 (i) the empirical data is not reasonably available to the requester elsewhere in similar  
8347 form; and

8348 (ii) the governmental entity is given a reasonable opportunity to correct any errors or  
8349 make nonsubstantive changes before release;

8350 (j) drafts that are circulated to anyone other than:

8351 (i) a governmental entity;

8352 (ii) a political subdivision;

8353 (iii) a federal agency if the governmental entity and the federal agency are jointly  
8354 responsible for implementation of a program or project that has been legislatively approved;

8355 (iv) a government-managed corporation; or

8356 (v) a contractor or private provider;

8357 (k) drafts that have never been finalized but were relied upon by the governmental  
8358 entity in carrying out action or policy;

8359 (l) original data in a computer program if the governmental entity chooses not to  
8360 disclose the program;

8361 (m) arrest warrants after issuance, except that, for good cause, a court may order  
8362 restricted access to arrest warrants prior to service;

8363 (n) search warrants after execution and filing of the return, except that a court, for good  
8364 cause, may order restricted access to search warrants prior to trial;

8365 (o) records that would disclose information relating to formal charges or disciplinary  
8366 actions against a past or present governmental entity employee if:

8367 (i) the disciplinary action has been completed and all time periods for administrative  
8368 appeal have expired; and

8369 (ii) the charges on which the disciplinary action was based were sustained;

8370 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School  
8371 and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that  
8372 evidence mineral production on government lands;

8373 (q) final audit reports;

8374 (r) occupational and professional licenses;

8375 (s) business licenses; and

8376 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar  
8377 records used to initiate proceedings for discipline or sanctions against persons regulated by a  
8378 governmental entity, but not including records that initiate employee discipline.

8379 (4) The list of public records in this section is not exhaustive and should not be used to  
8380 limit access to records.

8381 Section 94. Section 63G-2-302 is amended to read:

8382 **63G-2-302. Private records.**

8383 (1) The following records are private:

8384 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
8385 social services, welfare benefits, or the determination of benefit levels;

8386 (b) records containing data on individuals describing medical history, diagnosis,  
8387 condition, treatment, evaluation, or similar medical data;

8388 (c) records of publicly funded libraries that when examined alone or with other records  
8389 identify a patron;

8390 (d) records received by or generated by or for:

8391 (i) the Independent Legislative Ethics Commission, except for:

8392 (A) the commission's summary data report that is required under legislative rule; and

8393 (B) any other document that is classified as public under legislative rule; or

8394 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,  
8395 unless the record is classified as public under legislative rule;

8396 (e) records received by, or generated by or for, the Independent Executive Branch

8397 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review

8398 of Executive Branch Ethics Complaints;

8399 (f) records received or generated for a Senate confirmation committee concerning  
8400 character, professional competence, or physical or mental health of an individual:

8401 (i) if, prior to the meeting, the chair of the committee determines release of the records:

8402 (A) reasonably could be expected to interfere with the investigation undertaken by the  
8403 committee; or

8404 (B) would create a danger of depriving a person of a right to a fair proceeding or  
8405 impartial hearing; and

8406 (ii) after the meeting, if the meeting was closed to the public;

8407 (g) employment records concerning a current or former employee of, or applicant for  
8408 employment with, a governmental entity that would disclose that individual's home address,  
8409 home telephone number, social security number, insurance coverage, marital status, or payroll  
8410 deductions;

8411 (h) records or parts of records under Section [63G-2-303](#) that a current or former  
8412 employee identifies as private according to the requirements of that section;

8413 (i) that part of a record indicating a person's social security number or federal employer  
8414 identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#),  
8415 [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);

8416 (j) that part of a voter registration record identifying a voter's:

8417 (i) driver license or identification card number;

8418 (ii) Social Security number, or last four digits of the Social Security number;

8419 (iii) email address; or

8420 (iv) date of birth;

8421 (k) a voter registration record that is classified as a private record by the lieutenant  
8422 governor or a county clerk under Subsection [20A-2-104\(4\)\(f\)](#) or [20A-2-101.1\(5\)\(a\)](#);

8423 (l) a record that:

8424 (i) contains information about an individual;

8425 (ii) is voluntarily provided by the individual; and

8426 (iii) goes into an electronic database that:

8427 (A) is designated by and administered under the authority of the Chief Information  
8428 Officer; and

- 8429 (B) acts as a repository of information about the individual that can be electronically  
8430 retrieved and used to facilitate the individual's online interaction with a state agency;
- 8431 (m) information provided to the Commissioner of Insurance under:
- 8432 (i) Subsection [31A-23a-115\(3\)\(a\)](#);
- 8433 (ii) Subsection [31A-23a-302\(4\)](#); or
- 8434 (iii) Subsection [31A-26-210\(4\)](#);
- 8435 (n) information obtained through a criminal background check under Title 11, Chapter  
8436 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
- 8437 (o) information provided by an offender that is:
- 8438 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap  
8439 Offender Registry or Title 77, Chapter 43, Child Abuse Registry; and
- 8440 (ii) not required to be made available to the public under Subsection [77-41-110\(4\)](#) or  
8441 [77-43-108\(4\)](#);
- 8442 (p) a statement and any supporting documentation filed with the attorney general in  
8443 accordance with Section [34-45-107](#), if the federal law or action supporting the filing involves  
8444 homeland security;
- 8445 (q) electronic toll collection customer account information received or collected under  
8446 Section [72-6-118](#) and customer information described in Section [17B-2a-815](#) received or  
8447 collected by a public transit district, including contact and payment information and customer  
8448 travel data;
- 8449 (r) an email address provided by a military or overseas voter under Section  
8450 [20A-16-501](#);
- 8451 (s) a completed military-overseas ballot that is electronically transmitted under Title  
8452 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 8453 (t) records received by or generated by or for the Political Subdivisions Ethics Review  
8454 Commission established in Section [11-49-201](#), except for:
- 8455 (i) the commission's summary data report that is required in Section [11-49-202](#); and  
8456 (ii) any other document that is classified as public in accordance with Title 11, Chapter  
8457 49, Political Subdivisions Ethics Review Commission;
- 8458 (u) a record described in Subsection [~~53A-11a-203~~] [53G-9-604\(3\)](#) that verifies that a  
8459 parent was notified of an incident or threat; and

8460 (v) a criminal background check or credit history report conducted in accordance with  
8461 Section 63A-3-201.

8462 (2) The following records are private if properly classified by a governmental entity:

8463 (a) records concerning a current or former employee of, or applicant for employment  
8464 with a governmental entity, including performance evaluations and personal status information  
8465 such as race, religion, or disabilities, but not including records that are public under Subsection  
8466 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

8467 (b) records describing an individual's finances, except that the following are public:

8468 (i) records described in Subsection 63G-2-301(2);

8469 (ii) information provided to the governmental entity for the purpose of complying with  
8470 a financial assurance requirement; or

8471 (iii) records that must be disclosed in accordance with another statute;

8472 (c) records of independent state agencies if the disclosure of those records would  
8473 conflict with the fiduciary obligations of the agency;

8474 (d) other records containing data on individuals the disclosure of which constitutes a  
8475 clearly unwarranted invasion of personal privacy;

8476 (e) records provided by the United States or by a government entity outside the state  
8477 that are given with the requirement that the records be managed as private records, if the  
8478 providing entity states in writing that the record would not be subject to public disclosure if  
8479 retained by it;

8480 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
8481 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
8482 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

8483 (g) audio and video recordings created by a body-worn camera, as defined in Section  
8484 77-7a-103, that record sound or images inside a home or residence except for recordings that:

8485 (i) depict the commission of an alleged crime;

8486 (ii) record any encounter between a law enforcement officer and a person that results in  
8487 death or bodily injury, or includes an instance when an officer fires a weapon;

8488 (iii) record any encounter that is the subject of a complaint or a legal proceeding  
8489 against a law enforcement officer or law enforcement agency;

8490 (iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d);

8491 or

8492 (v) have been requested for reclassification as a public record by a subject or  
8493 authorized agent of a subject featured in the recording.

8494 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
8495 records, statements, history, diagnosis, condition, treatment, and evaluation.

8496 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
8497 doctors, or affiliated entities are not private records or controlled records under Section  
8498 [63G-2-304](#) when the records are sought:

8499 (i) in connection with any legal or administrative proceeding in which the patient's  
8500 physical, mental, or emotional condition is an element of any claim or defense; or

8501 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
8502 relies upon the condition as an element of the claim or defense.

8503 (c) Medical records are subject to production in a legal or administrative proceeding  
8504 according to state or federal statutes or rules of procedure and evidence as if the medical  
8505 records were in the possession of a nongovernmental medical care provider.

8506 Section 95. Section [63G-7-102](#) is amended to read:

8507 **[63G-7-102. Definitions.](#)**

8508 As used in this chapter:

8509 (1) "Arises out of or in connection with, or results from," when used to describe the  
8510 relationship between conduct or a condition and an injury, means that:

8511 (a) there is some causal relationship between the conduct or condition and the injury;

8512 (b) the causal relationship is more than any causal connection but less than proximate  
8513 cause; and

8514 (c) the causal relationship is sufficient to conclude that the injury originates with, flows  
8515 from, or is incident to the conduct or condition.

8516 (2) "Claim" means any asserted demand for or cause of action for money or damages,  
8517 whether arising under the common law, under state constitutional provisions, or under state  
8518 statutes, against a governmental entity or against an employee in the employee's personal  
8519 capacity.

8520 (3) (a) "Employee" includes:

8521 (i) a governmental entity's officers, employees, servants, trustees, or commissioners;

- 8522 (ii) members of a governing body;
- 8523 (iii) members of a government entity board;
- 8524 (iv) members of a government entity commission;
- 8525 (v) members of an advisory body, officers, and employees of a Children's Justice
- 8526 Center created in accordance with Section [67-5b-102](#);
- 8527 (vi) student teachers holding a letter of authorization in accordance with Sections
- 8528 ~~[53A-6-103]~~ [53E-6-102](#) and ~~[53A-6-104]~~ [53E-6-201](#);
- 8529 (vii) educational aides;
- 8530 (viii) students engaged in providing services to members of the public in the course of
- 8531 an approved medical, nursing, or other professional health care clinical training program;
- 8532 (ix) volunteers as defined by Subsection [67-20-2\(3\)](#); and
- 8533 (x) tutors.
- 8534 (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or
- 8535 not the individual holding that position receives compensation.
- 8536 (c) "Employee" does not include an independent contractor.
- 8537 (4) "Governmental entity" means the state and its political subdivisions as both are
- 8538 defined in this section.
- 8539 (5) (a) "Governmental function" means each activity, undertaking, or operation of a
- 8540 governmental entity.
- 8541 (b) "Governmental function" includes each activity, undertaking, or operation
- 8542 performed by a department, agency, employee, agent, or officer of a governmental entity.
- 8543 (c) "Governmental function" includes a governmental entity's failure to act.
- 8544 (6) "Injury" means death, injury to a person, damage to or loss of property, or any other
- 8545 injury that a person may suffer to the person or estate, that would be actionable if inflicted by a
- 8546 private person or the private person's agent.
- 8547 (7) "Personal injury" means an injury of any kind other than property damage.
- 8548 (8) "Political subdivision" means any county, city, town, school district, community
- 8549 reinvestment agency, special improvement or taxing district, local district, special service
- 8550 district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
- 8551 Interlocal Cooperation Act, or other governmental subdivision or public corporation.
- 8552 (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in

8553 real or personal property.

8554 (10) "State" means the state of Utah, and includes each office, department, division,  
8555 agency, authority, commission, board, institution, hospital, college, university, Children's  
8556 Justice Center, or other instrumentality of the state.

8557 (11) "Willful misconduct" means the intentional doing of a wrongful act, or the  
8558 wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's  
8559 conduct will probably result in injury.

8560 Section 96. Section **63I-1-251** is amended to read:

8561 **63I-1-251. Repeal dates, Title 51.**

8562 Subsection [51-2a-202](#)(3) is repealed on June 30, 2020.

8563 Section 97. Section **63I-1-253** is amended to read:

8564 **63I-1-253. Repeal dates, Titles 53, 53A, and 53B.**

8565 The following provisions are repealed on the following dates:

8566 (1) Subsection [53-10-202](#)(18) is repealed July 1, 2018.

8567 (2) Section [53-10-202.1](#) is repealed July 1, 2018.

8568 (3) [~~Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program~~]

8569 Section 53F-2-514, is repealed July 1, 2020.

8570 (4) Section [~~[53A-13-106.5](#)~~] [53F-6-201](#) is repealed July 1, 2019.

8571 (5) Section [~~[53A-15-106](#)~~] [53F-5-203](#) is repealed July 1, 2019.

8572 (6) Sections [~~[53A-15-206](#)~~] [53E-3-515](#) and [~~[53A-15-207](#)~~] [53F-9-501](#) are repealed

8573 January 1, 2023.

8574 (7) [~~Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education~~  
8575 ~~State Plan Pilot Program~~] Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native  
8576 Education State Plan Pilot Program, is repealed July 1, 2022.

8577 (8) Section [53B-24-402](#), Rural residency training program, is repealed July 1, 2020.

8578 (9) Subsection [53C-3-203](#)(4)(b)(vii), which provides for the distribution of money  
8579 from the Land Exchange Distribution Account to the Geological Survey for test wells, other  
8580 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

8581 Section 98. Section **63I-2-253** is amended to read:

8582 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

8583 [~~(1) Section [53A-1-403.5](#) is repealed July 1, 2017.~~]

- 8584 [~~(2)~~] Section ~~53A-1-411~~ is repealed July 1, 2017.]
- 8585 [~~(3)~~] (1) Section [~~53A-1-415~~] ~~53F-4-204~~ is repealed July 1, 2019.
- 8586 [~~(4)~~] (2) Section [~~53A-1-709~~] ~~53F-6-202~~ is repealed July 1, 2020.
- 8587 [~~(5)~~] (3) Subsection [~~53A-1-1207~~] ~~53E-5-306~~(3)(b)(ii)(B) is repealed July 1, 2020.
- 8588 [~~(6)~~] (4) Section [~~53A-1-1208~~] ~~53E-5-307~~ is repealed July 1, 2020.
- 8589 [~~(7)~~] Subsection ~~53A-1a-513~~(4) is repealed July 1, 2017.]
- 8590 [~~(8)~~] Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is  
8591 repealed July 1, 2017.]
- 8592 [~~(9)~~] Section ~~53A-24-601~~ is repealed January 1, 2018.]
- 8593 [~~(10)~~] (5) Section ~~53A-24-602~~ is repealed July 1, 2018.
- 8594 [~~(11)~~] (6) (a) Subsections ~~53B-2a-103~~(2) and (4) are repealed July 1, 2019.  
8595 (b) When repealing Subsections ~~53B-2a-103~~(2) and (4), the Office of Legislative  
8596 Research and General Counsel shall, in addition to its authority under Subsection ~~36-12-12~~(3),  
8597 make necessary changes to subsection numbering and cross references.
- 8598 [~~(12)~~] Subsections ~~53B-7-101~~(2)(b)(iii)(A) and (3) are repealed January 1, 2018.]
- 8599 [~~(13)~~] (7) Subsection ~~53B-7-705~~(6)(b)(ii)(B) is repealed July 1, 2021.
- 8600 [~~(14)~~] (8) Subsection ~~53B-7-707~~(4)(b) is repealed July 1, 2021.
- 8601 [~~(15)~~] (9) (a) The following sections are repealed on July 1, 2023:  
8602 (i) Section ~~53B-8-202~~;  
8603 (ii) Section ~~53B-8-203~~;  
8604 (iii) Section ~~53B-8-204~~; and  
8605 (iv) Section ~~53B-8-205~~.
- 8606 (b) (i) Subsection ~~53B-8-201~~(2) is repealed on July 1, 2023.  
8607 (ii) When repealing Subsection ~~53B-8-201~~(2), the Office of Legislative Research and  
8608 General Counsel shall, in addition to its authority under Subsection ~~36-12-12~~(3), make  
8609 necessary changes to subsection numbering and cross references.
- 8610 [~~(16)~~] (10) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project,  
8611 is repealed July 1, 2023.
- 8612 Section 99. Section ~~63I-4a-102~~ is amended to read:  
8613 **63I-4a-102. Definitions.**  
8614 (1) (a) "Activity" means to provide a good or service.

- 8615 (b) "Activity" includes to:
- 8616 (i) manufacture a good or service;
- 8617 (ii) process a good or service;
- 8618 (iii) sell a good or service;
- 8619 (iv) offer for sale a good or service;
- 8620 (v) rent a good or service;
- 8621 (vi) lease a good or service;
- 8622 (vii) deliver a good or service;
- 8623 (viii) distribute a good or service; or
- 8624 (ix) advertise a good or service.
- 8625 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 8626 (i) the state; or
- 8627 (ii) an entity of the state including a department, office, division, authority,
- 8628 commission, or board.
- 8629 (b) "Agency" does not include:
- 8630 (i) the Legislature;
- 8631 (ii) an entity or agency of the Legislature;
- 8632 (iii) the state auditor;
- 8633 (iv) the state treasurer;
- 8634 (v) the Office of the Attorney General;
- 8635 (vi) the Utah Dairy Commission created in Section [4-22-103](#);
- 8636 (vii) the Heber Valley Historic Railroad Authority created in Section [63H-4-102](#);
- 8637 (viii) the Utah State Railroad Museum Authority created in Section [63H-5-102](#);
- 8638 (ix) the Utah Housing Corporation created in Section [63H-8-201](#);
- 8639 (x) the Utah State Fair Corporation created in Section [63H-6-103](#);
- 8640 (xi) the Utah State Retirement Office created in Section [49-11-201](#);
- 8641 (xii) a charter school chartered by the State Charter School Board or a board of trustees
- 8642 of a higher education institution under [~~Title 53A, Chapter 1a, Part 5, The Utah Charter~~
- 8643 ~~Schools Act~~] Title 53G, Chapter 5, Charter Schools;
- 8644 (xiii) the Utah Schools for the Deaf and the Blind created in [~~Title 53A, Chapter 25b,~~
- 8645 ~~Utah Schools for the Deaf and the Blind~~] Title 53E, Chapter 8, Utah Schools for the Deaf and

- 8646 Blind;
- 8647 (xiv) an institution of higher education as defined in Section 53B-3-102;
- 8648 (xv) the School and Institutional Trust Lands Administration created in Section
- 8649 53C-1-201;
- 8650 (xvi) the Utah Communications Authority created in Section 63H-7a-201; or
- 8651 (xvii) the Utah Capital Investment Corporation created in Section 63N-6-301.
- 8652 (3) "Agency head" means the chief administrative officer of an agency.
- 8653 (4) "Board" means the Free Market Protection and Privatization Board created in
- 8654 Section 63I-4a-202.
- 8655 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
- 8656 or in part from a private enterprise.
- 8657 (6) "Local entity" means:
- 8658 (a) a political subdivision of the state, including a:
- 8659 (i) county;
- 8660 (ii) city;
- 8661 (iii) town;
- 8662 (iv) local school district;
- 8663 (v) local district; or
- 8664 (vi) special service district;
- 8665 (b) an agency of an entity described in this Subsection (6), including a department,
- 8666 office, division, authority, commission, or board; or
- 8667 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
- 8668 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 8669 (7) "Private enterprise" means a person that engages in an activity for profit.
- 8670 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
- 8671 private enterprise engages in the activity, including a transfer by:
- 8672 (a) contract;
- 8673 (b) transfer of property; or
- 8674 (c) another arrangement.
- 8675 (9) "Special district" means:
- 8676 (a) a local district, as defined in Section 17B-1-102;

8677 (b) a special service district, as defined in Section [17D-1-102](#); or

8678 (c) a conservation district, as defined in Section [17D-3-102](#).

8679 Section 100. Section **63J-1-206** is amended to read:

8680 **63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**

8681 **Transfer of funds -- Exclusion.**

8682 (1) As used in this section, "work program" means a budget that contains revenues and  
8683 expenditures for specific purposes or functions within an item of appropriation.

8684 (2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in  
8685 the appropriating act:

8686 (i) all money appropriated by the Legislature is appropriated upon the terms and  
8687 conditions set forth in this chapter; and

8688 (ii) any department, agency, or institution that accepts money appropriated by the  
8689 Legislature does so subject to the requirements of this chapter.

8690 (b) This section does not apply to:

8691 (i) the Legislature and its committees; and

8692 (ii) the Investigation Account of the Water Resources Construction Fund, which is  
8693 governed by Section [73-10-8](#).

8694 (3) (a) Each appropriation item is to be expended subject to any schedule of programs  
8695 and any restriction attached to the appropriation item, as designated by the Legislature.

8696 (b) Each schedule of programs or restriction attached to an appropriation item:

8697 (i) is a restriction or limitation upon the expenditure of the respective appropriation  
8698 made;

8699 (ii) does not itself appropriate any money; and

8700 (iii) is not itself an item of appropriation.

8701 (c) (i) Except as provided in Subsection (3)(c)(ii), an appropriation or any surplus of  
8702 any appropriation may not be diverted from any department, agency, institution, or division to  
8703 any other department, agency, institution, or division.

8704 (ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert  
8705 money to another department, agency, institution, or division only for the purposes of law  
8706 enforcement, adjudication, corrections, and providing and addressing services for homeless  
8707 individuals and families.

8708 (d) The money appropriated subject to a schedule or programs or restriction may be  
8709 used only for the purposes authorized.

8710 (e) In order for a department, agency, or institution to transfer money appropriated to it  
8711 from one program to another program within an item of appropriation, the following procedure  
8712 shall be followed:

8713 (i) The department, agency, or institution seeking to make the transfer shall prepare:

8714 (A) a new work program for the fiscal year involved that consists of the currently  
8715 approved work program and the transfer sought to be made; and

8716 (B) a written justification for the new work program that sets forth the purpose and  
8717 necessity for the transfer.

8718 (ii) The Division of Finance shall process the new work program with written  
8719 justification and make this information available to the Governor's Office of Management and  
8720 Budget and the legislative fiscal analyst.

8721 (f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from  
8722 one item of appropriation to any other item of appropriation.

8723 (ii) The state superintendent may transfer money appropriated for the Minimum School  
8724 Program between line items of appropriation in accordance with Section [~~53A-17a-105~~]  
8725 [53F-2-205](#).

8726 (g) (i) The procedures for transferring money between programs within an item of  
8727 appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State  
8728 Board of Education for the Minimum School Program or capital outlay programs created in  
8729 [~~Title 53A, Chapter 21, Public Education Capital Outlay Act~~] Title 53F, Chapter 3, State  
8730 Funding -- Capital Outlay Programs.

8731 (ii) The state superintendent may transfer money appropriated for the programs  
8732 specified in Subsection (3)(g)(i) only as provided by Section [~~53A-17a-105~~] [53F-2-205](#).

8733 Section 101. Section **63J-1-220** is amended to read:

8734 **63J-1-220. Reporting related to pass through money distributed by state**  
8735 **agencies.**

8736 (1) As used in this section:

8737 (a) "Local government entity" means a county, municipality, school district, local  
8738 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special

8739 service district under Title 17D, Chapter 1, Special Service District Act, or any other political  
8740 subdivision of the state.

8741 (b) (i) "Pass through funding" means money appropriated by the Legislature to a state  
8742 agency that is intended to be passed through the state agency to one or more:

8743 (A) local government entities;

8744 (B) private organizations, including not-for-profit organizations; or

8745 (C) persons in the form of a loan or grant.

8746 (ii) "Pass through funding" may be:

8747 (A) general funds, dedicated credits, or any combination of state funding sources; and

8748 (B) ongoing or one-time.

8749 (c) "Recipient entity" means a local government entity or private entity, including a  
8750 nonprofit entity, that receives money by way of pass through funding from a state agency.

8751 (d) "State agency" means a department, commission, board, council, agency,  
8752 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
8753 unit, bureau, panel, or other administrative unit of the executive branch of the state.

8754 (e) (i) "State money" means money that is owned, held, or administered by a state  
8755 agency and derived from state fees or tax revenues.

8756 (ii) "State money" does not include contributions or donations received by a state  
8757 agency.

8758 (2) A state agency may not provide a recipient entity state money through pass through  
8759 funding unless:

8760 (a) the state agency enters into a written agreement with the recipient entity; and

8761 (b) the written agreement described in Subsection (2)(a) requires the recipient entity to  
8762 provide the state agency:

8763 (i) a written description and an itemized report at least annually detailing the  
8764 expenditure of the state money, or the intended expenditure of any state money that has not  
8765 been spent; and

8766 (ii) a final written itemized report when all the state money is spent.

8767 (3) A state agency shall provide to the Governor's Office of Management and Budget a  
8768 copy of a written description or itemized report received by the state agency under Subsection  
8769 (2).

8770 (4) Notwithstanding Subsection (2), a state agency is not required to comply with this  
8771 section to the extent that the pass through funding is issued:

8772 (a) under a competitive award process;

8773 (b) in accordance with a formula enacted in statute;

8774 (c) in accordance with a state program under parameters in statute or rule that guides  
8775 the distribution of the pass through funding; or

8776 (d) under the authority of the minimum school program, as defined in Subsection  
8777 [~~53A-17a-103~~] [53F-2-102](#)(7)(e).

8778 Section 102. Section **63J-1-602.3** is amended to read:

8779 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

8780 (1) The Utah Law Enforcement Memorial Support Restricted Account created in  
8781 Section [53-1-120](#).

8782 (2) Funding for the Search and Rescue Financial Assistance Program, as provided in  
8783 Section [53-2a-1102](#).

8784 (3) Appropriations made to the Division of Emergency Management from the State  
8785 Disaster Recovery Restricted Account, as provided in Section [53-2a-603](#).

8786 (4) Appropriations made to the Department of Public Safety from the Department of  
8787 Public Safety Restricted Account, as provided in Section [53-3-106](#).

8788 (5) Appropriations to the Motorcycle Rider Education Program, as provided in Section  
8789 [53-3-905](#).

8790 (6) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account  
8791 created in Section [53-8-303](#).

8792 (7) Appropriations from the DNA Specimen Restricted Account created in Section  
8793 [53-10-407](#).

8794 (8) The Canine Body Armor Restricted Account created in Section [53-16-201](#).

8795 (9) The School Readiness Restricted Account created in Section [~~53A-1b-104~~]  
8796 [53F-9-402](#).

8797 (10) Appropriations to the State Board of Education, as provided in Section  
8798 [~~53A-17a-105~~] [53F-2-205](#).

8799 (11) Money received by the Utah State Office of Rehabilitation for the sale of certain  
8800 products or services, as provided in Section [35A-13-202](#).

8801 (12) Certain funds appropriated from the General Fund to the State Board of Regents  
8802 for teacher preparation programs, as provided in Section 53B-6-104.

8803 (13) Funding for the Medical Education Program administered by the Medical  
8804 Education Council, as provided in Section 53B-24-202.

8805 (14) A certain portion of money collected for administrative costs under the School  
8806 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

8807 (15) Subject to Subsection 54-5-1.5(4)(d), appropriations from the Public Utility  
8808 Regulatory Restricted Account created in Section 54-5-1.5.

8809 (16) Certain fines collected by the Division of Occupational and Professional Licensing  
8810 for violation of unlawful or unprofessional conduct that are used for education and enforcement  
8811 purposes, as provided in Section 58-17b-505.

8812 (17) Certain fines collected by the Division of Occupational and Professional Licensing  
8813 for use in education and enforcement of the Security Personnel Licensing Act, as provided in  
8814 Section 58-63-103.

8815 (18) Appropriations from the Relative Value Study Restricted Account created in  
8816 Section 59-9-105.

8817 (19) The Cigarette Tax Restricted Account created in Section 59-14-204.  
8818 Section 103. Section 63J-3-102 is amended to read:

8819 **63J-3-102. Purpose of chapter -- Limitations on state mandated property tax,  
8820 state appropriations, and state debt.**

8821 (1) (a) It is the purpose of this chapter to:

8822 (i) place a limitation on the state mandated property tax rate under [~~Title 53A, Chapter~~  
8823 ~~17a, Minimum School Program Act~~] Title 53F, Chapter 2, State Funding -- Minimum School  
8824 Program;

8825 (ii) place limitations on state government appropriations based upon the combined  
8826 changes in population and inflation; and

8827 (iii) place a limitation on the state's outstanding general obligation debt.

8828 (b) The limitations imposed by this chapter are in addition to limitations on tax levies,  
8829 rates, and revenues otherwise provided for by law.

8830 (2) (a) This chapter may not be construed as requiring the state to collect the full  
8831 amount of tax revenues permitted to be appropriated by this chapter.

8832 (b) This chapter's purpose is to provide a ceiling, not a floor, limitation on the  
8833 appropriations of state government.

8834 (3) The recommendations and budget analysis prepared by the Governor's Office of  
8835 Management and Budget and the Office of the Legislative Fiscal Analyst, as required by Title  
8836 36, Chapter 12, Legislative Organization, shall be in strict compliance with the limitations  
8837 imposed under this chapter.

8838 Section 104. Section **63J-3-401** is amended to read:

8839 **63J-3-401. State mandated property tax limitation -- Vote requirement needed to**  
8840 **exceed limitation.**

8841 The state mandated property tax rate in [~~Title 53A, Chapter 17a, Minimum School~~  
8842 ~~Program Act~~] Title 53F, Chapter 2, State Funding -- Minimum School Program, as of July 1,  
8843 1989, may not be increased without more than a two-thirds vote of both houses of the  
8844 Legislature.

8845 Section 105. Section **63J-7-102** is amended to read:

8846 **63J-7-102. Scope and applicability of chapter.**

8847 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute  
8848 superseding provisions of this chapter by explicit reference to this chapter, the provisions of  
8849 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

8850 (2) This chapter does not govern:

8851 (a) a grant deposited into a General Fund restricted account;

8852 (b) a grant deposited into a Trust and Agency Fund as defined in Section [51-5-4](#);

8853 (c) a grant deposited into an Enterprise Fund as defined in Section [51-5-4](#);

8854 (d) a grant made to the state without a restriction or other designated purpose that is  
8855 deposited into the General Fund as free revenue;

8856 (e) a grant made to the state that is restricted only to "education" and that is deposited  
8857 into the Education Fund or Uniform School Fund as free revenue;

8858 (f) in-kind donations;

8859 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state  
8860 when required by state law or application of state law;

8861 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax  
8862 Contribution Act;

- 8863 (i) a grant received by an agency from another agency or political subdivision;
- 8864 (j) a grant to the Utah Dairy Commission created in Section [4-22-103](#);
- 8865 (k) a grant to the Heber Valley Historic Railroad Authority created in Section
- 8866 [63H-4-102](#);
- 8867 (l) a grant to the Utah State Railroad Museum Authority created in Section [63H-5-102](#);
- 8868 (m) a grant to the Utah Housing Corporation created in Section [63H-8-201](#);
- 8869 (n) a grant to the Utah State Fair Corporation created in Section [63H-6-103](#);
- 8870 (o) a grant to the Utah State Retirement Office created in Section [49-11-201](#);
- 8871 (p) a grant to the School and Institutional Trust Lands Administration created in
- 8872 Section [53C-1-201](#);
- 8873 (q) a grant to the Utah Communications Authority created in Section [63H-7a-201](#);
- 8874 (r) a grant to the Medical Education Program created in Section [53B-24-202](#);
- 8875 (s) a grant to the Utah Capital Investment Corporation created in Section [63N-6-301](#);
- 8876 (t) a grant to the Utah Charter School Finance Authority created in Section
- 8877 [~~53A-20b-103~~] [53G-5-602](#);
- 8878 (u) a grant to the State Building Ownership Authority created in Section [63B-1-304](#); or
- 8879 (v) a grant to the Military Installation Development Authority created in Section
- 8880 [63H-1-201](#).
- 8881 (3) An agency need not seek legislative review or approval of grants under Part 2,
- 8882 Grant Approval Requirements, if:
- 8883 (a) the governor has declared a state of emergency; and
- 8884 (b) the grant is donated to the agency to assist victims of the state of emergency under
- 8885 Subsection [53-2a-204](#)(1).
- 8886 Section 106. Section **63N-3-110** is amended to read:
- 8887 **63N-3-110. Selection of educational technology provider to implement**
- 8888 **whole-school one-to-one mobile device technology deployment plan for schools.**
- 8889 The board shall select an educational technology provider to develop and implement a
- 8890 whole-school one-to-one mobile device technology deployment plan for schools in accordance
- 8891 with the requirements of this part and Section [~~53A-1-709~~] [53F-6-202](#).
- 8892 Section 107. Section **63N-12-202** is amended to read:
- 8893 **63N-12-202. Definitions.**

8894 As used in this part:

8895 (1) "Board" means the STEM Action Center Board created in Section [63N-12-203](#).

8896 (2) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in  
8897 computer science, information technology, or computer engineering courses and career options.

8898 (3) "Director" means the director appointed by the board to oversee the administration  
8899 of the STEM Action Center.

8900 (4) "Educator" means the same as that term is defined in Section [~~53A-6-103~~]  
8901 [53E-6-102](#).

8902 (5) "Foundation" means a foundation established as described in Subsections  
8903 [63N-12-204](#)(3) and (4).

8904 (6) "Fund" means the STEM Action Center Foundation Fund created in Section  
8905 [63N-12-204.5](#).

8906 (7) "Grant program" means the Computing Partnerships Grants program created in this  
8907 part.

8908 (8) "High quality professional development" means professional development that  
8909 meets high quality standards developed by the State Board of Education.

8910 (9) "Institution of higher education" means an institution listed in Section [53B-1-102](#).

8911 (10) "K-16" means kindergarten through grade 12 and post-secondary education  
8912 programs.

8913 (11) "Office" means the Governor's Office of Economic Development.

8914 (12) "Provider" means a provider selected on behalf of the board by the staff of the  
8915 board and the staff of the State Board of Education:

8916 (a) through a request for proposals process; or

8917 (b) through a direct award or sole source procurement process for a pilot described in  
8918 Section [63N-12-206](#).

8919 (13) "Review committee" means the committee established under Section [63N-12-214](#).

8920 (14) "Stacked credentials" means credentials that:

8921 (a) an individual can build upon to access an advanced job or higher wage;

8922 (b) are part of a career pathway system;

8923 (c) provide a pathway culminating in the equivalent of an associate's or bachelor's  
8924 degree;

8925 (d) facilitate multiple exit and entry points; and

8926 (e) recognize sub-goals or momentum points.

8927 (15) "STEM" means science, technology, engineering, and mathematics.

8928 (16) "STEM Action Center" means the center described in Section [63N-12-205](#).

8929 (17) "Talent Ready Utah" means a partnership between the Governor's Office of

8930 Economic Development, the Governor's Education Advisor, the Department of Workforce

8931 Services, the Utah State Board of Education, the Utah System of Higher Education,

8932 representatives of post-secondary technical education, industry partners, and the Utah STEM

8933 Action Center.

8934 Section 108. Section **63N-12-213** is amended to read:

8935 **63N-12-213. Computer science initiative for public schools.**

8936 (1) As used in this section:

8937 (a) "Computational thinking" means the set of problem-solving skills and techniques

8938 that software engineers use to write programs that underlie computer applications, including

8939 decomposition, pattern recognition, pattern generalization, and algorithm design.

8940 (b) "Computer coding" means the process of writing script for a computer program or

8941 mobile device.

8942 (c) "Educator" means the same as that term is defined in Section [~~53A-6-103~~]

8943 [53E-6-102](#).

8944 (d) "Endorsement" means a stipulation, authorized by the State Board of Education and

8945 appended to a license, that specifies the areas of practice to which the license applies.

8946 (e) (i) "Institution of higher education" means the same as that term is defined in

8947 Section [53B-3-102](#).

8948 (ii) "Institution of higher education" includes a technical college described in Section

8949 [53B-2a-105](#).

8950 (f) "Employer" means a private employer, public employer, industry association, union,

8951 or the military.

8952 (g) "License" means the same as that term is defined in Section [~~53A-6-103~~]

8953 [53E-6-102](#).

8954 (2) Subject to legislative appropriations, on behalf of the board, the staff of the board

8955 and the staff of the State Board of Education shall collaborate to develop and implement a

8956 computer science initiative for public schools by:

8957 (a) creating an online repository that:

8958 (i) is available for school districts and charter schools to use as a resource; and

8959 (ii) includes high quality computer science instructional resources that are designed to

8960 teach students in all grade levels:

8961 (A) computational thinking skills; and

8962 (B) computer coding skills;

8963 (b) providing for professional development on teaching computer science by:

8964 (i) including resources for educators related to teaching computational thinking and

8965 computer coding in the STEM education high quality professional development application

8966 described in Section [63N-12-210](#); and

8967 (ii) providing statewide or regional professional development institutes; and

8968 (c) awarding grants to a school district or charter school, on a competitive basis, that

8969 may be used to provide incentives for an educator to earn a computer science endorsement.

8970 (3) A school district or charter school may enter into an agreement with one or more of

8971 the following entities to jointly apply for a grant under Subsection (2)(c):

8972 (a) a school district;

8973 (b) a charter school;

8974 (c) an employer;

8975 (d) an institution of higher education; or

8976 (e) a non-profit organization.

8977 (4) To apply for a grant described in Subsection (2)(c), a school district or charter

8978 school shall submit a plan to the State Board of Education for the use of the grant, including a

8979 statement of purpose that describes the methods the school district or charter school proposes

8980 to use to incentivize an educator to earn a computer science endorsement.

8981 (5) The board and the State Board of Education shall encourage schools to

8982 independently pursue computer science and coding initiatives, subject to local school board or

8983 charter school governing board approval, based on the unique needs of the school's students.

8984 (6) The board shall include information on the status of the computer science initiative

8985 in the annual report described in Section [63N-12-208](#).

8986 Section 109. Section **64-13-42** is amended to read:

8987           **64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender**  
 8988 **education and training programs.**

8989           (1) (a) There is created within the General Fund a restricted account known as the  
 8990 Prison Telephone Surcharge Account.

8991           (b) The Prison Telephone Surcharge Account consists of:

8992           (i) beginning July 1, 2006, revenue generated by the state from pay telephone services  
 8993 located at any correctional facility as defined in Section [64-13-1](#);

8994           (ii) interest on account money;

8995           (iii) (A) money paid by inmates participating in postsecondary education provided by  
 8996 the department; and

8997           (B) money repaid by former inmates who have a written agreement with the  
 8998 department to pay for a specified portion of the tuition costs under the department's deferred  
 8999 tuition payment program;

9000           (iv) money collected by the Office of State Debt Collection for debt described in  
 9001 Subsection (1)(b)(iii); and

9002           (v) money appropriated by the Legislature.

9003           (2) Upon appropriation by the Legislature, money from the Prison Telephone  
 9004 Surcharge Account shall be used by the department for education and training programs for  
 9005 offenders and inmates as defined in Section [64-13-1](#).

9006           ~~[(3) Funds appropriated from the Prison Telephone Surcharge Account may only be~~  
 9007 ~~used by the department for purposes under Subsections [53A-1-403.5\(3\)\(a\)\(i\)](#) and (iv).]~~

9008           Section 110. Section **67-1a-11** is amended to read:

9009           **67-1a-11. Commission on Civic and Character Education -- Duties and**  
 9010 **responsibilities.**

9011           The commission shall:

9012           (1) promote supportive coalitions and collaborative efforts to develop public  
 9013 awareness, and training regarding the provisions of Section [~~[53A-13-109](#)~~] [53G-10-204](#) in  
 9014 recognition that the cultivation of a continuing understanding and appreciation of  
 9015 representative democracy in Utah and the United States among succeeding generations of  
 9016 educated and responsible citizens is important to the nation and state; and

9017           (2) provide leadership to the state's continuous focus on civic and character education

9018 in the public schools and institutions of higher education and make recommendations to local  
9019 school boards and school administrators.

9020 Section 111. Section **67-8-3** is amended to read:

9021 **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative**  
9022 **approval -- Career status attorneys.**

9023 (1) (a) The executive director of the Department of Human Resource Management,  
9024 based upon recommendations of the Executive and Judicial Compensation Commission shall,  
9025 before October 31 of each year, recommend to the governor a compensation plan for appointed  
9026 officers of the state except those officers whose compensation is set under Section ~~49-11-203~~,  
9027 ~~[53A-1-302]~~ 53E-3-302, 53B-1-105, or 53C-1-301.

9028 (b) The plan shall include salaries and wages, paid leave, group insurance plans,  
9029 retirement programs, and any other benefits that may be offered to state officers.

9030 (2) The governor shall include in each annual budget proposal to the Legislature  
9031 specific recommendations on compensation for those appointed state officers in Subsection (1).

9032 (3) (a) After consultation with the attorney general, the executive director of the  
9033 Department of Human Resource Management shall place career status attorneys on a state  
9034 salary schedule at a range comparable with salaries paid attorneys in private and other public  
9035 employment.

9036 (b) The attorney general and the executive director shall take into consideration the  
9037 experience of the attorney, length of service with the Office of the Attorney General, quality of  
9038 performance, and responsibility involved in legal assignments.

9039 (c) The attorney general and the executive director shall periodically adjust the salary  
9040 levels for attorneys in a career status to reasonably compensate them for full-time employment  
9041 and the restrictions placed on the private practice of law.

9042 Section 112. Section **67-16-3** is amended to read:

9043 **67-16-3. Definitions.**

9044 As used in this chapter:

9045 (1) "Agency" means:

9046 (a) any department, division, agency, commission, board, council, committee,  
9047 authority, or any other institution of the state or any of its political subdivisions; or

9048 (b) an association as defined in Section ~~[53A-16-101]~~ 53G-7-1101.

9049 (2) "Agency head" means the chief executive or administrative officer of any agency.

9050 (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,  
9051 aid, advise, furnish information to, or otherwise provide assistance to a person or business  
9052 entity, believing that such action is of help, aid, advice, or assistance to such person or business  
9053 entity and with the intent to assist such person or business entity.

9054 (4) "Business entity" means a sole proprietorship, partnership, association, joint  
9055 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on  
9056 a business.

9057 (5) "Compensation" means anything of economic value, however designated, which is  
9058 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone  
9059 other than the governmental employer for or in consideration of personal services, materials,  
9060 property, or any other thing whatsoever.

9061 (6) "Controlled, private, or protected information" means information classified as  
9062 controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and  
9063 Management Act, or other applicable provision of law.

9064 (7) "Governmental action" means any action on the part of the state, a political  
9065 subdivision, or an agency, including:

9066 (a) any decision, determination, finding, ruling, or order; and

9067 (b) any grant, payment, award, license, contract, subcontract, transaction, decision,  
9068 sanction, or approval, or the denial thereof, or the failure to act in respect to.

9069 (8) "Improper disclosure" means disclosure of controlled, private, or protected  
9070 information to any person who does not have the right to receive the information.

9071 (9) "Legislative employee" means any officer or employee of the Legislature, or any  
9072 committee of the Legislature, who is appointed or employed to serve, either with or without  
9073 compensation, for an aggregate of less than 800 hours during any period of 365 days.  
9074 "Legislative employee" does not include legislators.

9075 (10) "Legislator" means a member or member-elect of either house of the Legislature  
9076 of the state of Utah.

9077 (11) "Political subdivision" means a district, school district, or any other political  
9078 subdivision of the state that is not an agency, but does not include a municipality or a county.

9079 (12) (a) "Public employee" means a person who is not a public officer who is employed

9080 on a full-time, part-time, or contract basis by:

9081 (i) the state;

9082 (ii) a political subdivision of the state; or

9083 (iii) an association as defined in Section [~~53A-1-1601~~] [53G-7-1101](#).

9084 (b) "Public employee" does not include legislators or legislative employees.

9085 (13) (a) "Public officer" means an elected or appointed officer:

9086 (i) (A) of the state;

9087 (B) of a political subdivision of the state; or

9088 (C) an association as defined in Section [~~53A-1-1601~~] [53G-7-1101](#); and

9089 (ii) who occupies a policymaking post.

9090 (b) "Public officer" does not include legislators or legislative employees.

9091 (14) "State" means the state of Utah.

9092 (15) "Substantial interest" means the ownership, either legally or equitably, by an  
9093 individual, the individual's spouse, or the individual's minor children, of at least 10% of the  
9094 outstanding capital stock of a corporation or a 10% interest in any other business entity.

9095 Section 113. Section ~~67-16-4~~ is amended to read:

9096 **67-16-4. Improperly disclosing or using private, controlled, or protected**  
9097 **information -- Using position to secure privileges or exemptions -- Accepting employment**  
9098 **that would impair independence of judgment or ethical performance -- Exception.**

9099 (1) Except as provided in Subsection (3), it is an offense for a public officer, public  
9100 employee, or legislator to:

9101 (a) accept employment or engage in any business or professional activity that he might  
9102 reasonably expect would require or induce him to improperly disclose controlled information  
9103 that he has gained by reason of his official position;

9104 (b) disclose or improperly use controlled, private, or protected information acquired by  
9105 reason of his official position or in the course of official duties in order to further substantially  
9106 the officer's or employee's personal economic interest or to secure special privileges or  
9107 exemptions for himself or others;

9108 (c) use or attempt to use his official position to:

9109 (i) further substantially the officer's or employee's personal economic interest; or

9110 (ii) secure special privileges or exemptions for himself or others;

9111 (d) accept other employment that he might expect would impair his independence of  
9112 judgment in the performance of his public duties; or

9113 (e) accept other employment that he might expect would interfere with the ethical  
9114 performance of his public duties.

9115 (2) (a) Subsection (1) does not apply to the provision of education-related services to  
9116 public school students by public education employees acting outside their regular employment.

9117 (b) The conduct referred to in Subsection (2)(a) is subject to Section [~~53A-1-402.5~~]  
9118 [53E-3-512](#).

9119 (3) This section does not apply to a public officer, public employee, or legislator who  
9120 engages in conduct that constitutes a violation of this section to the extent that the public  
9121 officer, public employee, or legislator is chargeable, for the same conduct, under Section  
9122 [63G-6a-2404](#) or Section [76-8-105](#).

9123 Section 114. Section **67-19-15** is amended to read:

9124 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**  
9125 **positions -- Coverage of career service provisions.**

9126 (1) Except as otherwise provided by law or by rules and regulations established for  
9127 federally aided programs, the following positions are exempt from the career service provisions  
9128 of this chapter and are designated under the following schedules:

9129 (a) schedule AA includes the governor, members of the Legislature, and all other  
9130 elected state officers;

9131 (b) schedule AB includes appointed executives and board or commission executives  
9132 enumerated in Section [67-22-2](#);

9133 (c) schedule AC includes all employees and officers in:

9134 (i) the office and at the residence of the governor;

9135 (ii) the Utah Science Technology and Research Initiative (USTAR);

9136 (iii) the Public Lands Policy Coordinating Council;

9137 (iv) the Office of the State Auditor; and

9138 (v) the Office of the State Treasurer;

9139 (d) schedule AD includes employees who:

9140 (i) are in a confidential relationship to an agency head or commissioner; and

9141 (ii) report directly to, and are supervised by, a department head, commissioner, or

- 9142 deputy director of an agency or its equivalent;
- 9143 (e) schedule AE includes each employee of the State Board of Education that the State  
9144 Board of Education designates as exempt from the career service provisions of this chapter;
- 9145 (f) schedule AG includes employees in the Office of the Attorney General who are  
9146 under their own career service pay plan under Sections [67-5-7](#) through [67-5-13](#);
- 9147 (g) schedule AH includes:
- 9148 (i) teaching staff of all state institutions; and
- 9149 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
- 9150 (A) educational interpreters as classified by the department; or
- 9151 (B) educators as defined by Section [~~53A-25b-102~~] [53E-8-102](#);
- 9152 (h) schedule AN includes employees of the Legislature;
- 9153 (i) schedule AO includes employees of the judiciary;
- 9154 (j) schedule AP includes all judges in the judiciary;
- 9155 (k) schedule AQ includes:
- 9156 (i) members of state and local boards and councils appointed by the governor and  
9157 governing bodies of agencies;
- 9158 (ii) a water commissioner appointed under Section [73-5-1](#);
- 9159 (iii) other local officials serving in an ex officio capacity; and
- 9160 (iv) officers, faculty, and other employees of state universities and other state  
9161 institutions of higher education;
- 9162 (l) schedule AR includes employees in positions that involve responsibility:
- 9163 (i) for determining policy;
- 9164 (ii) for determining the way in which a policy is carried out; or
- 9165 (iii) of a type not appropriate for career service, as determined by the agency head with  
9166 the concurrence of the executive director;
- 9167 (m) schedule AS includes any other employee:
- 9168 (i) whose appointment is required by statute to be career service exempt;
- 9169 (ii) whose agency is not subject to this chapter; or
- 9170 (iii) whose agency has authority to make rules regarding the performance,  
9171 compensation, and bonuses for its employees;
- 9172 (n) schedule AT includes employees of the Department of Technology Services,

9173 designated as executive/professional positions by the executive director of the Department of  
9174 Technology Services with the concurrence of the executive director;

9175 (o) schedule AU includes patients and inmates employed in state institutions;

9176 (p) employees of the Department of Workforce Services, designated as schedule AW:

9177 (i) who are temporary employees that are federally funded and are required to work  
9178 under federally qualified merit principles as certified by the director; or

9179 (ii) for whom substantially all of their work is repetitive, measurable, or transaction  
9180 based, and who voluntarily apply for and are accepted by the Department of Workforce

9181 Services to work in a pay for performance program designed by the Department of Workforce  
9182 Services with the concurrence of the executive director; and

9183 (q) for employees in positions that are temporary, seasonal, time limited, funding  
9184 limited, or variable hour in nature, under schedule codes and parameters established by the  
9185 department by administrative rule.

9186 (2) The civil service shall consist of two schedules as follows:

9187 (a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

9188 (ii) Removal from any appointive position under schedule A, unless otherwise  
9189 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

9190 (b) Schedule B is the competitive career service schedule, consisting of:

9191 (i) all positions filled through competitive selection procedures as defined by the  
9192 executive director; or

9193 (ii) positions filled through a department approved on-the-job examination intended to  
9194 appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter  
9195 10, Veteran's Preference.

9196 (3) (a) The executive director, after consultation with the heads of concerned executive  
9197 branch departments and agencies and with the approval of the governor, shall allocate positions  
9198 to the appropriate schedules under this section.

9199 (b) Agency heads shall make requests and obtain approval from the executive director  
9200 before changing the schedule assignment and tenure rights of any position.

9201 (c) Unless the executive director's decision is reversed by the governor, when the  
9202 executive director denies an agency's request, the executive director's decision is final.

9203 (4) (a) Compensation for employees of the Legislature shall be established by the

9204 directors of the legislative offices in accordance with Section [36-12-7](#).

9205 (b) Compensation for employees of the judiciary shall be established by the state court  
9206 administrator in accordance with Section [78A-2-107](#).

9207 (c) Compensation for officers, faculty, and other employees of state universities and  
9208 institutions of higher education shall be established as provided in Title 53B, Chapter 1,  
9209 Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of  
9210 Higher Education.

9211 (d) Unless otherwise provided by law, compensation for all other schedule A  
9212 employees shall be established by their appointing authorities, within ranges approved by, and  
9213 after consultation with the executive director of the Department of Human Resource  
9214 Management.

9215 (5) An employee who is in a position designated schedule AC and who holds career  
9216 service status on June 30, 2010, shall retain the career service status if the employee:

9217 (a) remains in the position that the employee is in on June 30, 2010; and

9218 (b) does not elect to convert to career service exempt status in accordance with a rule  
9219 made by the department.

9220 Section 115. Section **75-5-201** is amended to read:

9221 **75-5-201. Status of guardian of minor -- General.**

9222 (1) (a) A person becomes a guardian of a minor by acceptance of a testamentary  
9223 appointment, through appointment by a local school board under Section [[53A-2-202](#)]

9224 [53G-6-303](#), or upon appointment by the court.

9225 (b) The guardianship status continues until terminated, without regard to the location  
9226 from time to time of the guardian and minor ward.

9227 (2) (a) A document issued by other than a court of law which purports to award  
9228 guardianship to a person who is not a legal resident of the jurisdiction in which the  
9229 guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah  
9230 court.

9231 (b) The procedure for obtaining approval of a guardianship under Subsection (2)(a)  
9232 shall be identical to the procedure required under this part for obtaining a court appointment of  
9233 a guardian.

9234 Section 116. Section **76-5-415** is amended to read:

9235 **76-5-415. Educator's license subject to action for violation of this part.**

9236 Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, by  
9237 an educator as defined in Section ~~[53A-6-103]~~ [53E-6-102](#), is grounds under Section  
9238 ~~[53A-6-501]~~ [53E-6-604](#) for disciplinary action against the educator, including revocation of the  
9239 educator's license.

9240 Section 117. Section **76-10-105** is amended to read:

9241 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**  
9242 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

9243 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's  
9244 possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C  
9245 misdemeanor and subject to:

9246 (a) a minimum fine or penalty of \$60; and

9247 (b) participation in a court-approved tobacco education program, which may include a  
9248 participation fee.

9249 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the  
9250 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject  
9251 to the jurisdiction of the juvenile court and subject to Section [78A-6-602](#), unless the violation  
9252 is committed on school property. If a violation under this section is adjudicated under Section  
9253 [78A-6-117](#), the minor may be subject to the following:

9254 (a) a fine or penalty, in accordance with Section [78A-6-117](#); and

9255 (b) participation in a court-approved tobacco education program, which may include a  
9256 participation fee.

9257 (3) A compliance officer appointed by a board of education under Section ~~[53A-3-402]~~  
9258 [53G-4-402](#) may not issue a citation for a violation of this section committed on school  
9259 property. A cited violation committed on school property shall be addressed in accordance with  
9260 Section ~~[53A-11-911]~~ [53G-8-211](#).

9261 Section 118. Section **77-37-4** is amended to read:

9262 **77-37-4. Additional rights -- Children.**

9263 In addition to all rights afforded to victims and witnesses under this chapter, child  
9264 victims and witnesses shall be afforded these rights:

9265 (1) Children have the right to protection from physical and emotional abuse during

9266 their involvement with the criminal justice process.

9267 (2) Children are not responsible for inappropriate behavior adults commit against them  
9268 and have the right not to be questioned, in any manner, nor to have allegations made, implying  
9269 this responsibility. Those who interview children have the responsibility to consider the  
9270 interests of the child in this regard.

9271 (3) Child victims and witnesses have the right to have interviews relating to a criminal  
9272 prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they  
9273 are conducted by persons sensitive to the needs of children.

9274 (4) Child victims have the right to be informed of available community resources that  
9275 might assist them and how to gain access to those resources. Law enforcement and prosecutors  
9276 have the duty to ensure that child victims are informed of community resources, including  
9277 counseling prior to the court proceeding, and have those services available throughout the  
9278 criminal justice process.

9279 (5) (a) Child victims have the right, once an investigation has been initiated by law  
9280 enforcement or the Division of Child and Family Services, to keep confidential their interviews  
9281 that are conducted at a Children's Justice Center, including video and audio recordings, and  
9282 transcripts of those recordings. Except as provided in Subsection (6), recordings and  
9283 transcripts of interviews may not be distributed, released, or displayed to anyone without a  
9284 court order.

9285 (b) A court order described in Subsection (5)(a):

9286 (i) shall describe with particularity to whom the recording or transcript of the interview  
9287 may be released and prohibit further distribution or viewing by anyone not named in the order;  
9288 and

9289 (ii) may impose restrictions on access to the materials considered reasonable to protect  
9290 the privacy of the child victim.

9291 (c) A parent or guardian of the child victim may petition a juvenile or district court for  
9292 an order allowing the parent or guardian to view a recording or transcript upon a finding of  
9293 good cause. The order shall designate the agency that is required to display the recording or  
9294 transcript to the parent or guardian and shall prohibit viewing by anyone not named in the  
9295 order.

9296 (d) Following the conclusion of any legal proceedings in which the recordings or

9297 transcripts are used, the court shall order the recordings and transcripts in the court's file sealed  
9298 and preserved.

9299 (6) (a) The following offices and their designated employees may distribute and receive  
9300 a recording or transcript to and from one another without a court order:

9301 (i) the Division of Child and Family Services;

9302 (ii) administrative law judges employed by the Department of Human Services;

9303 (iii) Department of Human Services investigators investigating the Division of Child  
9304 and Family Services or investigators authorized to investigate under Section [62A-4a-202.6](#);

9305 (iv) an office of the city attorney, county attorney, district attorney, or attorney general;

9306 (v) a law enforcement agency;

9307 (vi) a Children's Justice Center established under Section [67-5b-102](#); or

9308 (vii) the attorney for the child who is the subject of the interview.

9309 (b) In a criminal case or in a juvenile court in which the state is a party:

9310 (i) the parties may display and enter into evidence a recording or transcript in the  
9311 course of a prosecution;

9312 (ii) the state's attorney may distribute a recording or transcript to the attorney for the  
9313 defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for  
9314 discovery;

9315 (iii) the attorney for the defendant or respondent may do one or both of the following:

9316 (A) release the recording or transcript to an expert retained by the attorney for the  
9317 defendant or respondent if the expert agrees in writing that the expert will not distribute,  
9318 release, or display the recording or transcript to anyone without prior authorization from the  
9319 court; or

9320 (B) permit the defendant or respondent to view the recording or transcript, but may not  
9321 distribute or release the recording or transcript to the defendant or respondent; and

9322 (iv) the court shall advise a pro se defendant or respondent that a recording or  
9323 transcript received as part of discovery is confidential and may not be distributed, released, or  
9324 displayed without prior authorization from the court.

9325 (c) A court's failure to advise a pro se defendant or respondent that a recording or  
9326 transcript received as part of discovery is confidential and may not be used as a defense to  
9327 prosecution for a violation of the disclosure rule.

9328 (d) In an administrative case, pursuant to a written request, the Division of Child and  
9329 Family Services may display, but may not distribute or release, a recording or transcript to the  
9330 respondent or to the respondent's designated representative.

9331 (e) (i) Within two business days of a request from a parent or guardian of a child  
9332 victim, an investigative agency shall allow the parent or guardian to view a recording after the  
9333 conclusion of an interview, unless:

9334 (A) the suspect is a parent or guardian of the child victim;

9335 (B) the suspect resides in the home with the child victim; or

9336 (C) the investigative agency determines that allowing the parent or guardian to view  
9337 the recording would likely compromise or impede the investigation.

9338 (ii) If the investigative agency determines that allowing the parent or guardian to view  
9339 the recording would likely compromise or impede the investigation, the parent or guardian may  
9340 petition a juvenile or district court for an expedited hearing on whether there is good cause for  
9341 the court to enter an order allowing the parent or guardian to view the recording in accordance  
9342 with Subsection (5)(c).

9343 (iii) A Children's Justice Center shall coordinate the viewing of the recording described  
9344 in this Subsection (6)(e).

9345 (f) A multidisciplinary team assembled by a Children's Justice Center or an  
9346 interdisciplinary team assembled by the Division of Child and Family Services may view a  
9347 recording or transcript, but may not receive a recording or transcript.

9348 (g) A Children's Justice Center:

9349 (i) may distribute or display a recording or transcript to an authorized trainer or  
9350 evaluator for purposes of training or evaluation; and

9351 (ii) may display, but may not distribute, a recording or transcript to an authorized  
9352 trainee.

9353 (h) An authorized trainer or instructor may display a recording or transcript according  
9354 to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center  
9355 or according to the authorized trainer's or instructor's scope of employment.

9356 (i) (i) In an investigation under Section [~~53A-6-306~~] [53E-6-506](#), in which a child  
9357 victim who is the subject of the recording or transcript has alleged criminal conduct against an  
9358 educator, a law enforcement agency may distribute or release the recording or transcript to an

9359 investigator operating under State Board of Education authorization, upon the investigator's  
9360 written request.

9361 (ii) If the respondent in a case investigated under Section [~~53A-6-306~~] [53E-6-506](#)  
9362 requests a hearing authorized under that section, the investigator operating under State Board  
9363 of Education authorization may display, release, or distribute the recording or transcript to the  
9364 prosecutor operating under State Board of Education authorization or to an expert retained by  
9365 an investigator.

9366 (iii) Upon request for a hearing under Section [~~53A-6-306~~] [53E-6-506](#), a prosecutor  
9367 operating under State Board of Education authorization may display the recording or transcript  
9368 to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the  
9369 respondent.

9370 (iv) The parties to a hearing authorized under Section [~~53A-6-306~~] [53E-6-506](#) may  
9371 display and enter into evidence a recording or transcript in the course of a prosecution.

9372 (7) Except as otherwise provided in this section, it is a class B misdemeanor for any  
9373 individual to distribute, release, or display any recording or transcript of an interview of a child  
9374 victim conducted at a Children's Justice Center.

9375 Section 119. Section **78A-6-103 (Superseded 07/01/18)** is amended to read:

9376 **78A-6-103 (Superseded 07/01/18). Jurisdiction of juvenile court -- Original --**  
9377 **Exclusive.**

9378 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
9379 jurisdiction in proceedings concerning:

9380 (a) a child who has violated any federal, state, or local law or municipal ordinance or a  
9381 person younger than 21 years of age who has violated any law or ordinance before becoming  
9382 18 years of age, regardless of where the violation occurred, excluding offenses in Subsection  
9383 [78A-7-106\(2\)](#);

9384 (b) a person 21 years of age or older who has failed or refused to comply with an order  
9385 of the juvenile court to pay a fine or restitution, if the order was imposed before the person's  
9386 21st birthday; however, the continuing jurisdiction is limited to causing compliance with  
9387 existing orders;

9388 (c) a child who is an abused child, neglected child, or dependent child, as those terms  
9389 are defined in Section [78A-6-105](#);

9390 (d) a protective order for a child pursuant to the provisions of Title 78B, Chapter 7,  
9391 Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the  
9392 juvenile court has entered an ex parte protective order and finds that:

9393 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step  
9394 parent of the child who is the object of the petition;

9395 (ii) the district court has a petition pending or an order related to custody or parent-time  
9396 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,  
9397 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the  
9398 respondent are parties; and

9399 (iii) the best interests of the child will be better served in the district court;

9400 (e) appointment of a guardian of the person or other guardian of a minor who comes  
9401 within the court's jurisdiction under other provisions of this section;

9402 (f) the emancipation of a minor in accordance with Part 8, Emancipation;

9403 (g) the termination of the legal parent-child relationship in accordance with Part 5,  
9404 Termination of Parental Rights Act, including termination of residual parental rights and  
9405 duties;

9406 (h) the treatment or commitment of a minor who has an intellectual disability;

9407 (i) a minor who is a habitual truant from school;

9408 (j) the judicial consent to the marriage of a child under age 16 upon a determination of  
9409 voluntariness or where otherwise required by law, employment, or enlistment of a child when  
9410 consent is required by law;

9411 (k) any parent or parents of a child committed to a secure youth corrections facility, to  
9412 order, at the discretion of the court and on the recommendation of a secure facility, the parent  
9413 or parents of a child committed to a secure facility for a custodial term, to undergo group  
9414 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of  
9415 that parent's or parents' child, or any other therapist the court may direct, for a period directed  
9416 by the court as recommended by a secure facility;

9417 (l) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

9418 (m) the treatment or commitment of a child with a mental illness. The court may  
9419 commit a child to the physical custody of a local mental health authority in accordance with the  
9420 procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under

9421 Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State  
9422 Hospital;

9423 (n) the commitment of a child to a secure drug or alcohol facility in accordance with  
9424 Section [62A-15-301](#);

9425 (o) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);

9426 (p) de novo review of final agency actions resulting from an informal adjudicative  
9427 proceeding as provided in Section [63G-4-402](#); and

9428 (q) adoptions conducted in accordance with the procedures described in Title 78B,  
9429 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order  
9430 terminating the rights of a parent and finds that adoption is in the best interest of the child.

9431 (2) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile  
9432 court has exclusive jurisdiction over the following offenses committed by a child:

9433 (a) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

9434 (b) Section [73-18-12](#), reckless operation; and

9435 (c) class B and C misdemeanors, infractions, or violations of ordinances that are part of  
9436 a single criminal episode filed in a petition that contains an offense over which the court has  
9437 jurisdiction.

9438 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is  
9439 referred to it by the Division of Child and Family Services or by public or private agencies that  
9440 contract with the division to provide services to that child where, despite earnest and persistent  
9441 efforts by the division or agency, the child has demonstrated that the child:

9442 (a) is beyond the control of the child's parent, guardian, lawful custodian, or school  
9443 authorities to the extent that the child's behavior or condition endangers the child's own welfare  
9444 or the welfare of others; or

9445 (b) has run away from home.

9446 (4) This section does not restrict the right of access to the juvenile court by private  
9447 agencies or other persons.

9448 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases  
9449 arising under Section [78A-6-702](#).

9450 (6) The juvenile court has jurisdiction to make a finding of substantiated,  
9451 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

9452 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court  
9453 pursuant to Subsection [78A-7-106](#)(7).

9454 Section 120. Section **78A-6-103 (Effective 07/01/18)** is amended to read:

9455 **78A-6-103 (Effective 07/01/18). Jurisdiction of juvenile court -- Original --**

9456 **Exclusive.**

9457 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
9458 jurisdiction in proceedings concerning:

9459 (a) a child who has violated any federal, state, or local law or municipal ordinance or a  
9460 person younger than 21 years of age who has violated any law or ordinance before becoming  
9461 18 years of age, regardless of where the violation occurred, excluding offenses:

9462 (i) in Section [~~53A-11-911~~] [53G-8-211](#) until such time that the child is referred to the  
9463 courts under Section [~~53A-11-911~~] [53G-8-211](#); and

9464 (ii) in Subsection [78A-7-106](#)(2);

9465 (b) a child who is an abused child, neglected child, or dependent child, as those terms  
9466 are defined in Section [78A-6-105](#);

9467 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child  
9468 Protective Orders, which the juvenile court may transfer to the district court if the juvenile  
9469 court has entered an ex parte protective order and finds that:

9470 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step  
9471 parent of the child who is the object of the petition;

9472 (ii) the district court has a petition pending or an order related to custody or parent-time  
9473 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,  
9474 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the  
9475 respondent are parties; and

9476 (iii) the best interests of the child will be better served in the district court;

9477 (d) appointment of a guardian of the person or other guardian of a minor who comes  
9478 within the court's jurisdiction under other provisions of this section;

9479 (e) the emancipation of a minor in accordance with Part 8, Emancipation;

9480 (f) the termination of the legal parent-child relationship in accordance with Part 5,  
9481 Termination of Parental Rights Act, including termination of residual parental rights and  
9482 duties;

- 9483 (g) the treatment or commitment of a minor who has an intellectual disability;
- 9484 (h) the judicial consent to the marriage of a child under age 16 upon a determination of  
9485 voluntariness or where otherwise required by law, employment, or enlistment of a child when  
9486 consent is required by law;
- 9487 (i) any parent or parents of a child committed to a secure youth facility, to order, at the  
9488 discretion of the court and on the recommendation of a secure facility, the parent or parents of a  
9489 child committed to a secure facility for a custodial term, to undergo group rehabilitation  
9490 therapy under the direction of a secure facility therapist, who has supervision of that parent's or  
9491 parents' child, or any other therapist the court may direct, for a period directed by the court as  
9492 recommended by a secure facility;
- 9493 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
- 9494 (k) subject to Subsection (8), the treatment or commitment of a child with a mental  
9495 illness;
- 9496 (l) the commitment of a child to a secure drug or alcohol facility in accordance with  
9497 Section [62A-15-301](#);
- 9498 (m) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);
- 9499 (n) de novo review of final agency actions resulting from an informal adjudicative  
9500 proceeding as provided in Section [63G-4-402](#); and
- 9501 (o) adoptions conducted in accordance with the procedures described in Title 78B,  
9502 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order  
9503 terminating the rights of a parent and finds that adoption is in the best interest of the child.
- 9504 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile  
9505 court has exclusive jurisdiction over the following offenses committed by a child:
- 9506 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
- 9507 (ii) Section [73-18-12](#), reckless operation; and
- 9508 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part  
9509 of a single criminal episode filed in a petition that contains an offense over which the court has  
9510 jurisdiction.
- 9511 (b) A juvenile court may only order substance use disorder treatment or an educational  
9512 series if the minor has an assessed need for the intervention on the basis of the results of a  
9513 validated assessment.

9514 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is  
9515 referred to it by the Division of Child and Family Services or by public or private agencies that  
9516 contract with the division to provide services to that child when, despite earnest and persistent  
9517 efforts by the division or agency, the child has demonstrated that the child:

9518 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the  
9519 extent that the child's behavior or condition endangers the child's own welfare or the welfare of  
9520 others; or

9521 (b) has run away from home.

9522 (4) This section does not restrict the right of access to the juvenile court by private  
9523 agencies or other persons.

9524 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases  
9525 arising under Section [78A-6-702](#).

9526 (6) The juvenile court has jurisdiction to make a finding of substantiated,  
9527 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

9528 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court  
9529 pursuant to Subsection [78A-7-106\(5\)](#) and subject to Section [~~53A-11-911~~] [53G-8-211](#).

9530 (8) The court may commit a child to the physical custody of a local mental health  
9531 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age  
9532 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State  
9533 Hospital.

9534 Section 121. Section **78A-6-105** is amended to read:

9535 **78A-6-105. Definitions.**

9536 As used in this chapter:

9537 (1) (a) "Abuse" means:

9538 (i) (A) nonaccidental harm of a child;

9539 (B) threatened harm of a child;

9540 (C) sexual exploitation;

9541 (D) sexual abuse; or

9542 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

9543 (ii) that a child's natural parent:

9544 (A) intentionally, knowingly, or recklessly causes the death of another parent of the

9545 child;

9546 (B) is identified by a law enforcement agency as the primary suspect in an investigation  
9547 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

9548 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or  
9549 recklessly causing the death of another parent of the child.

9550 (b) "Abuse" does not include:

9551 (i) reasonable discipline or management of a child, including withholding privileges;

9552 (ii) conduct described in Section 76-2-401; or

9553 (iii) the use of reasonable and necessary physical restraint or force on a child:

9554 (A) in self-defense;

9555 (B) in defense of others;

9556 (C) to protect the child; or

9557 (D) to remove a weapon in the possession of a child for any of the reasons described in  
9558 Subsections (1)(b)(iii)(A) through (C).

9559 (2) "Abused child" means a child who has been subjected to abuse.

9560 (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts  
9561 alleged in the petition have been proved. A finding of not competent to proceed pursuant to  
9562 Section 78A-6-1302 is not an adjudication.

9563 (4) "Adult" means a person 18 years of age or over, except that a person 18 years or  
9564 over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall  
9565 be referred to as a minor.

9566 (5) "Board" means the Board of Juvenile Court Judges.

9567 (6) "Child" means a person under 18 years of age.

9568 (7) "Child placement agency" means:

9569 (a) a private agency licensed to receive a child for placement or adoption under this  
9570 code; or

9571 (b) a private agency that receives a child for placement or adoption in another state,  
9572 which agency is licensed or approved where such license or approval is required by law.

9573 (8) "Clandestine laboratory operation" means the same as that term is defined in  
9574 Section 58-37d-3.

9575 (9) "Commit" means, unless specified otherwise:

- 9576 (a) with respect to a child, to transfer legal custody; and
- 9577 (b) with respect to a minor who is at least 18 years of age, to transfer custody.
- 9578 (10) "Court" means the juvenile court.
- 9579 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
- 9580 a minor's likelihood of reoffending.
- 9581 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
- 9582 committed by an adult.
- 9583 (13) "Dependent child" includes a child who is homeless or without proper care
- 9584 through no fault of the child's parent, guardian, or custodian.
- 9585 (14) "Deprivation of custody" means transfer of legal custody by the court from a
- 9586 parent or the parents or a previous legal custodian to another person, agency, or institution.
- 9587 (15) "Detention" means home detention and secure detention as defined in Section
- 9588 [62A-7-101](#) for the temporary care of a minor who requires secure custody in a physically
- 9589 restricting facility:
  - 9590 (a) pending court disposition or transfer to another jurisdiction; or
  - 9591 (b) while under the continuing jurisdiction of the court.
- 9592 (16) "Detention risk assessment tool" means an evidence-based tool established under
- 9593 Section [78A-6-124](#), on and after July 1, 2018, that assesses a minor's risk of failing to appear in
- 9594 court or reoffending pre-adjudication and designed to assist in making detention
- 9595 determinations.
- 9596 (17) "Division" means the Division of Child and Family Services.
- 9597 (18) "Evidence-based" means a program or practice that has had multiple randomized
- 9598 control studies or a meta-analysis demonstrating that the program or practice is effective for a
- 9599 specific population or has been rated as effective by a standardized program evaluation tool.
- 9600 (19) "Formal probation" means a minor is under field supervision by the probation
- 9601 department or other agency designated by the court and subject to return to the court in
- 9602 accordance with Section [78A-6-123](#) on and after July 1, 2018.
- 9603 (20) "Formal referral" means a written report from a peace officer or other person
- 9604 informing the court that a minor is or appears to be within the court's jurisdiction and that a
- 9605 case must be reviewed.
- 9606 (21) "Group rehabilitation therapy" means psychological and social counseling of one

- 9607 or more persons in the group, depending upon the recommendation of the therapist.
- 9608 (22) "Guardianship of the person" includes the authority to consent to:
- 9609 (a) marriage;
- 9610 (b) enlistment in the armed forces;
- 9611 (c) major medical, surgical, or psychiatric treatment; or
- 9612 (d) legal custody, if legal custody is not vested in another person, agency, or institution.
- 9613 (23) "Habitual truant" means the same as that term is defined in Section [~~53A-11-101~~]
- 9614 [53G-6-201](#).
- 9615 (24) "Harm" means:
- 9616 (a) physical or developmental injury or damage;
- 9617 (b) emotional damage that results in a serious impairment in the child's growth,
- 9618 development, behavior, or psychological functioning;
- 9619 (c) sexual abuse; or
- 9620 (d) sexual exploitation.
- 9621 (25) (a) "Incest" means engaging in sexual intercourse with a person whom the
- 9622 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
- 9623 nephew, niece, or first cousin.
- 9624 (b) The relationships described in Subsection (25)(a) include:
- 9625 (i) blood relationships of the whole or half blood, without regard to legitimacy;
- 9626 (ii) relationships of parent and child by adoption; and
- 9627 (iii) relationships of stepparent and stepchild while the marriage creating the
- 9628 relationship of a stepparent and stepchild exists.
- 9629 (26) "Intake probation" means a period of court monitoring that does not include field
- 9630 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to
- 9631 return to the court in accordance with Section [78A-6-123](#) on and after July 1, 2018.
- 9632 (27) "Intellectual disability" means:
- 9633 (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or
- 9634 below on an individually administered IQ test, for infants, a clinical judgment of significantly
- 9635 subaverage intellectual functioning;
- 9636 (b) concurrent deficits or impairments in present adaptive functioning, the person's
- 9637 effectiveness in meeting the standards expected for the person's age by the person's cultural

9638 group, in at least two of the following areas: communication, self-care, home living,  
9639 social/interpersonal skills, use of community resources, self-direction, functional academic  
9640 skills, work, leisure, health, and safety; and

9641 (c) the onset is before the person reaches the age of 18 years.

9642 (28) "Legal custody" means a relationship embodying the following rights and duties:

9643 (a) the right to physical custody of the minor;

9644 (b) the right and duty to protect, train, and discipline the minor;

9645 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary  
9646 medical care;

9647 (d) the right to determine where and with whom the minor shall live; and

9648 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

9649 (29) "Material loss" means an uninsured:

9650 (a) property loss;

9651 (b) out-of-pocket monetary loss;

9652 (c) lost wages; or

9653 (d) medical expenses.

9654 (30) "Mental disorder" means a serious emotional and mental disturbance that severely  
9655 limits a minor's development and welfare over a significant period of time.

9656 (31) "Minor" means:

9657 (a) a child; or

9658 (b) a person who is:

9659 (i) at least 18 years of age and younger than 21 years of age; and

9660 (ii) under the jurisdiction of the juvenile court.

9661 (32) "Mobile crisis outreach team" means a crisis intervention service for minors or  
9662 families of minors experiencing behavioral health or psychiatric emergencies.

9663 (33) "Molestation" means that a person, with the intent to arouse or gratify the sexual  
9664 desire of any person:

9665 (a) touches the anus or any part of the genitals of a child;

9666 (b) takes indecent liberties with a child; or

9667 (c) causes a child to take indecent liberties with the perpetrator or another.

9668 (34) "Natural parent" means a minor's biological or adoptive parent, and includes the

9669 minor's noncustodial parent.

9670 (35) (a) "Neglect" means action or inaction causing:

9671 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe  
9672 Relinquishment of a Newborn Child;

9673 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,  
9674 guardian, or custodian;

9675 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary  
9676 subsistence, education, or medical care, or any other care necessary for the child's health,  
9677 safety, morals, or well-being;

9678 (iv) a child to be at risk of being neglected or abused because another child in the same  
9679 home is neglected or abused; or

9680 (v) abandonment of a child through an unregulated custody transfer.

9681 (b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii),  
9682 means that, after receiving a notice of compulsory education violation under Section  
9683 ~~[53A-11-101.5]~~ [53G-6-202](#), the parent or guardian fails to make a good faith effort to ensure  
9684 that the child receives an appropriate education.

9685 (c) A parent or guardian legitimately practicing religious beliefs and who, for that  
9686 reason, does not provide specified medical treatment for a child, is not guilty of neglect.

9687 (d) (i) Notwithstanding Subsection (35)(a), a health care decision made for a child by  
9688 the child's parent or guardian does not constitute neglect unless the state or other party to the  
9689 proceeding shows, by clear and convincing evidence, that the health care decision is not  
9690 reasonable and informed.

9691 (ii) Nothing in Subsection (35)(d)(i) may prohibit a parent or guardian from exercising  
9692 the right to obtain a second health care opinion and from pursuing care and treatment pursuant  
9693 to the second health care opinion, as described in Section [78A-6-301.5](#).

9694 (36) "Neglected child" means a child who has been subjected to neglect.

9695 (37) "Nonjudicial adjustment" means closure of the case by the assigned probation  
9696 officer without judicial determination upon the consent in writing of:

9697 (a) the assigned probation officer; and

9698 (b) (i) the minor; or

9699 (ii) the minor and the minor's parent, legal guardian, or custodian.

9700 (38) "Not competent to proceed" means that a minor, due to a mental disorder,  
9701 intellectual disability, or related condition as defined, lacks the ability to:

9702 (a) understand the nature of the proceedings against them or of the potential disposition  
9703 for the offense charged; or

9704 (b) consult with counsel and participate in the proceedings against them with a  
9705 reasonable degree of rational understanding.

9706 (39) "Physical abuse" means abuse that results in physical injury or damage to a child.

9707 (40) "Probation" means a legal status created by court order following an adjudication  
9708 on the ground of a violation of law or under Section 78A-6-103, whereby the minor is  
9709 permitted to remain in the minor's home under prescribed conditions.

9710 (41) "Protective supervision" means a legal status created by court order following an  
9711 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to  
9712 remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or  
9713 dependency is provided by the probation department or other agency designated by the court.

9714 (42) "Related condition" means a condition closely related to intellectual disability in  
9715 accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah  
9716 Administrative Code.

9717 (43) (a) "Residual parental rights and duties" means those rights and duties remaining  
9718 with the parent after legal custody or guardianship, or both, have been vested in another person  
9719 or agency, including:

9720 (i) the responsibility for support;

9721 (ii) the right to consent to adoption;

9722 (iii) the right to determine the child's religious affiliation; and

9723 (iv) the right to reasonable parent-time unless restricted by the court.

9724 (b) If no guardian has been appointed, "residual parental rights and duties" also include  
9725 the right to consent to:

9726 (i) marriage;

9727 (ii) enlistment; and

9728 (iii) major medical, surgical, or psychiatric treatment.

9729 (44) "Secure facility" means any facility operated by or under contract with the

9730 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for

9731 youth offenders committed to the division for custody and rehabilitation pursuant to Subsection  
9732 78A-6-117(2)(d).

9733 (45) "Severe abuse" means abuse that causes or threatens to cause serious harm to a  
9734 child.

9735 (46) "Severe neglect" means neglect that causes or threatens to cause serious harm to a  
9736 child.

9737 (47) "Sexual abuse" means:

9738 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an  
9739 adult directed towards a child;

9740 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation  
9741 committed by a child towards another child if:

9742 (i) there is an indication of force or coercion;

9743 (ii) the children are related, as described in Subsection (25);

9744 (iii) there have been repeated incidents of sexual contact between the two children,  
9745 unless the children are 14 years of age or older; or

9746 (iv) there is a disparity in chronological age of four or more years between the two  
9747 children; or

9748 (c) engaging in any conduct with a child that would constitute an offense under any of  
9749 the following, regardless of whether the person who engages in the conduct is actually charged  
9750 with, or convicted of, the offense:

9751 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the  
9752 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

9753 (ii) child bigamy, Section 76-7-101.5;

9754 (iii) incest, Section 76-7-102;

9755 (iv) lewdness, Section 76-9-702;

9756 (v) sexual battery, Section 76-9-702.1;

9757 (vi) lewdness involving a child, Section 76-9-702.5; or

9758 (vii) voyeurism, Section 76-9-702.7.

9759 (48) "Sexual exploitation" means knowingly:

9760 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

9761 (i) pose in the nude for the purpose of sexual arousal of any person; or

9762 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,  
9763 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

9764 (b) displaying, distributing, possessing for the purpose of distribution, or selling  
9765 material depicting a child:

9766 (i) in the nude, for the purpose of sexual arousal of any person; or

9767 (ii) engaging in sexual or simulated sexual conduct; or

9768 (c) engaging in any conduct that would constitute an offense under Section [76-5b-201](#),  
9769 sexual exploitation of a minor, regardless of whether the person who engages in the conduct is  
9770 actually charged with, or convicted of, the offense.

9771 (49) "Shelter" means the temporary care of a child in a physically unrestricted facility  
9772 pending court disposition or transfer to another jurisdiction.

9773 (50) "Status offense" means a violation of the law that would not be a violation but for  
9774 the age of the offender.

9775 (51) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or  
9776 substances.

9777 (52) "Substantiated" means the same as that term is defined in Section [62A-4a-101](#).

9778 (53) "Supported" means the same as that term is defined in Section [62A-4a-101](#).

9779 (54) "Termination of parental rights" means the permanent elimination of all parental  
9780 rights and duties, including residual parental rights and duties, by court order.

9781 (55) "Therapist" means:

9782 (a) a person employed by a state division or agency for the purpose of conducting  
9783 psychological treatment and counseling of a minor in its custody; or

9784 (b) any other person licensed or approved by the state for the purpose of conducting  
9785 psychological treatment and counseling.

9786 (56) "Unregulated custody transfer" means the placement of a child:

9787 (a) with a person who is not the child's parent, step-parent, grandparent, adult sibling,  
9788 adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom  
9789 the child is familiar, or a member of the child's federally recognized tribe;

9790 (b) with the intent of severing the child's existing parent-child or guardian-child  
9791 relationship; and

9792 (c) without taking:

9793 (i) reasonable steps to ensure the safety of the child and permanency of the placement;  
9794 and

9795 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or  
9796 guardianship to the person taking custody of the child.

9797 (57) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

9798 (58) "Validated risk and needs assessment" means an evidence-based tool that assesses  
9799 a minor's risk of reoffending and a minor's criminogenic needs.

9800 (59) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).

9801 Section 122. Section **78A-6-112 (Superseded 07/01/18)** is amended to read:

9802 **78A-6-112 (Superseded 07/01/18). Minor taken into custody by peace officer,**  
9803 **private citizen, or probation officer -- Grounds -- Notice requirements -- Release or**  
9804 **detention -- Grounds for peace officer to take adult into custody.**

9805 (1) A minor may be taken into custody by a peace officer without order of the court if:

9806 (a) in the presence of the officer the minor has violated a state law, federal law, local  
9807 law, or municipal ordinance;

9808 (b) there are reasonable grounds to believe the minor has committed an act which if  
9809 committed by an adult would be a felony;

9810 (c) the minor:

9811 (i) (A) is seriously endangered in the minor's surroundings; or

9812 (B) seriously endangers others; and

9813 (ii) immediate removal appears to be necessary for the minor's protection or the  
9814 protection of others;

9815 (d) there are reasonable grounds to believe the minor has run away or escaped from the  
9816 minor's parents, guardian, or custodian; or

9817 (e) there is reason to believe that the minor is:

9818 (i) subject to the state's compulsory education law; and

9819 (ii) absent from school without legitimate or valid excuse, subject to Section  
9820 [\[53A-11-105\]](#) [53G-6-208](#).

9821 (2) (a) A private citizen or a probation officer may take a minor into custody if under  
9822 the circumstances he could make a citizen's arrest if the minor was an adult.

9823 (b) A probation officer may also take a minor into custody under Subsection (1) or if

9824 the minor has violated the conditions of probation, if the minor is under the continuing  
9825 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not  
9826 immediately available.

9827 (3) (a) (i) If an officer or other person takes a minor into temporary custody, he shall  
9828 without unnecessary delay notify the parents, guardian, or custodian.

9829 (ii) The minor shall then be released to the care of the minor's parent or other  
9830 responsible adult, unless the minor's immediate welfare or the protection of the community  
9831 requires the minor's detention.

9832 (b) If the minor is taken into custody or detention for a violent felony, as defined in  
9833 Section [76-3-203.5](#), or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the  
9834 officer or other law enforcement agent taking the minor into custody shall, as soon as  
9835 practicable or as established under Subsection [~~53A-11-1001~~] [53G-8-402](#)(2), notify the school  
9836 superintendent of the district in which the minor resides or attends school for the purposes of  
9837 the minor's supervision and student safety.

9838 (i) The notice shall disclose only:

9839 (A) the name of the minor;

9840 (B) the offense for which the minor was taken into custody or detention; and

9841 (C) if available, the name of the victim, if the victim:

9842 (I) resides in the same school district as the minor; or

9843 (II) attends the same school as the minor.

9844 (ii) The notice shall be classified as a protected record under Section [63G-2-305](#).

9845 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government  
9846 Records Access and Management Act and the Federal Family Educational Rights and Privacy  
9847 Act.

9848 (c) Employees of a governmental agency are immune from any criminal liability for  
9849 providing or failing to provide the information required by this section unless the person acts or  
9850 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

9851 (d) Before the minor is released, the parent or other person to whom the minor is  
9852 released shall be required to sign a written promise on forms supplied by the court to bring the  
9853 minor to the court at a time set or to be set by the court.

9854 (4) (a) A child may not be held in temporary custody by law enforcement any longer

9855 than is reasonably necessary to obtain the child's name, age, residence, and other necessary  
9856 information and to contact the child's parents, guardian, or custodian.

9857 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place  
9858 of detention or shelter without unnecessary delay.

9859 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly  
9860 file with the detention or shelter facility a written report on a form provided by the division  
9861 stating the details of the presently alleged offense, the facts which bring the minor within the  
9862 jurisdiction of the juvenile court, and the reason the minor was not released by law  
9863 enforcement.

9864 (b) (i) The designated youth corrections facility staff person shall immediately review  
9865 the form and determine, based on the guidelines for detention admissions established by the  
9866 Division of Juvenile Justice Services under Section 62A-7-202, whether to admit the minor to  
9867 secure detention, admit the minor to home detention, place the minor in a placement other than  
9868 detention, or return the minor home upon written promise to bring the minor to the court at a  
9869 time set, or without restriction.

9870 (ii) If the designated youth corrections facility staff person determines to admit the  
9871 minor to home detention, that staff person shall notify the juvenile court of that determination.  
9872 The court shall order that notice be provided to the designated persons in the local law  
9873 enforcement agency and the school or transferee school, if applicable, which the minor attends  
9874 of the home detention. The designated persons may receive the information for purposes of the  
9875 minor's supervision and student safety.

9876 (iii) Any employee of the local law enforcement agency and the school which the  
9877 minor attends who discloses the notification of home detention is not:

9878 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as  
9879 provided in Section 63G-7-202; and

9880 (B) civilly or criminally liable except when disclosure constitutes a knowing violation  
9881 of Section 63G-2-801.

9882 (c) A minor may not be admitted to detention unless the minor is detainable based on  
9883 the guidelines or the minor has been brought to detention pursuant to a judicial order or  
9884 division warrant pursuant to Section 62A-7-504.

9885 (d) If a minor taken to detention does not qualify for admission under the guidelines

9886 established by the division under Section 62A-7-104, detention staff shall arrange appropriate  
9887 placement.

9888 (e) If a minor is taken into custody and admitted to a secure detention or shelter  
9889 facility, facility staff shall:

9890 (i) immediately notify the minor's parents, guardian, or custodian; and

9891 (ii) promptly notify the court of the placement.

9892 (f) If the minor is admitted to a secure detention or shelter facility outside the county of  
9893 the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3)  
9894 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of  
9895 the minor's residence to transport the minor to a detention or shelter facility as provided in this  
9896 section.

9897 (6) A person may be taken into custody by a peace officer without a court order if the  
9898 person is in apparent violation of a protective order or if there is reason to believe that a child is  
9899 being abused by the person and any of the situations outlined in Section 77-7-2 exist.

9900 Section 123. Section 78A-6-112 (Effective 07/01/18) is amended to read:

9901 **78A-6-112 (Effective 07/01/18). Minor taken into custody by peace officer, private**  
9902 **citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention --**  
9903 **Grounds for peace officer to take adult into custody.**

9904 (1) A minor may be taken into custody by a peace officer without order of the court if:

9905 (a) in the presence of the officer the minor has violated a state law, federal law, local  
9906 law, or municipal ordinance;

9907 (b) there are reasonable grounds to believe the minor has committed an act which if  
9908 committed by an adult would be a felony;

9909 (c) the minor:

9910 (i) (A) is seriously endangered in the minor's surroundings; or

9911 (B) seriously endangers others; and

9912 (ii) immediate removal appears to be necessary for the minor's protection or the  
9913 protection of others;

9914 (d) there are reasonable grounds to believe the minor has run away or escaped from the  
9915 minor's parents, guardian, or custodian; or

9916 (e) there is reason to believe that the minor is:

- 9917 (i) subject to the state's compulsory education law; and  
9918 (ii) absent from school without legitimate or valid excuse, subject to Section  
9919 ~~[53A-11-105]~~ [53G-6-208](#).
- 9920 (2) (a) A private citizen or a probation officer may take a minor into custody if under  
9921 the circumstances the private citizen or probation officer could make a citizen's arrest if the  
9922 minor was an adult.
- 9923 (b) A probation officer may also take a minor into custody under Subsection (1) or if  
9924 the minor has violated the conditions of probation, if the minor is under the continuing  
9925 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not  
9926 immediately available.
- 9927 (3) (a) (i) If an officer or other person takes a minor into temporary custody under  
9928 Subsection (1) or (2), the officer or person shall without unnecessary delay notify the parents,  
9929 guardian, or custodian.
- 9930 (ii) The minor shall then be released to the care of the minor's parent or other  
9931 responsible adult, unless the minor's immediate welfare or the protection of the community  
9932 requires the minor's detention.
- 9933 (b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention  
9934 under Subsection (4) for a violent felony, as defined in Section [76-3-203.5](#), or an offense in  
9935 violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent  
9936 taking the minor into custody shall, as soon as practicable or as established under Subsection  
9937 ~~[53A-11-1001]~~ [53G-8-402](#)(2), notify the school superintendent of the district in which the  
9938 minor resides or attends school for the purposes of the minor's supervision and student safety.
- 9939 (i) The notice shall disclose only:
- 9940 (A) the name of the minor;
- 9941 (B) the offense for which the minor was taken into custody or detention; and
- 9942 (C) if available, the name of the victim, if the victim:
- 9943 (I) resides in the same school district as the minor; or
- 9944 (II) attends the same school as the minor.
- 9945 (ii) The notice shall be classified as a protected record under Section [63G-2-305](#).
- 9946 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government  
9947 Records Access and Management Act, and the federal Family Educational Rights and Privacy

9948 Act.

9949 (c) Employees of a governmental agency are immune from any criminal liability for  
9950 providing or failing to provide the information required by this section unless the person acts or  
9951 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

9952 (d) Before the minor is released, the parent or other person to whom the minor is  
9953 released shall be required to sign a written promise on forms supplied by the court to bring the  
9954 minor to the court at a time set or to be set by the court.

9955 (4) (a) A child may not be held in temporary custody by law enforcement any longer  
9956 than is reasonably necessary to obtain the child's name, age, residence, and other necessary  
9957 information and to contact the child's parents, guardian, or custodian.

9958 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place  
9959 of detention or shelter without unnecessary delay.

9960 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly  
9961 file with the detention or shelter facility a written report on a form provided by the division  
9962 stating:

9963 (i) the details of the presently alleged offense;

9964 (ii) the facts that bring the minor within the jurisdiction of the juvenile court;

9965 (iii) the reason the minor was not released by law enforcement; and

9966 (iv) the eligibility of the minor under the division guidelines for detention admissions  
9967 established by the Division of Juvenile Justice Services under Section [62A-7-202](#) if the minor  
9968 is under consideration for detention.

9969 (b) (i) The designated facility staff person shall immediately review the form and  
9970 determine, based on the guidelines for detention admissions established by the Division of  
9971 Juvenile Justice Services under Section [62A-7-202](#), the results of the detention risk assessment,  
9972 and the criteria for detention eligibility under Section [78A-6-113](#), whether to:

9973 (A) admit the minor to secure detention;

9974 (B) admit the minor to home detention;

9975 (C) place the minor in another alternative to detention; or

9976 (D) return the minor home upon written promise to bring the minor to the court at a  
9977 time set, or without restriction.

9978 (ii) If the designated facility staff person determines to admit the minor to home

9979 detention, that staff person shall notify the juvenile court of that determination. The court shall  
9980 order that notice be provided to the designated persons in the local law enforcement agency and  
9981 the school or transferee school, if applicable, which the minor attends of the home detention.  
9982 The designated persons may receive the information for purposes of the minor's supervision  
9983 and student safety.

9984 (iii) Any employee of the local law enforcement agency and the school which the  
9985 minor attends who discloses the notification of home detention is not:

9986 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as  
9987 provided in Section [63G-7-202](#); and

9988 (B) civilly or criminally liable except when disclosure constitutes a knowing violation  
9989 of Section [63G-2-801](#).

9990 (iv) The person who takes a minor to a detention facility or the designated facility staff  
9991 person may release a minor to a less restrictive alternative even if the minor is eligible for  
9992 secure detention under this Subsection (5).

9993 (c) A minor may not be admitted to detention unless the minor is detainable based on  
9994 the guidelines or the minor has been brought to detention pursuant to a judicial order or  
9995 division warrant pursuant to Section [62A-7-504](#).

9996 (d) If a minor taken to detention does not qualify for admission under the guidelines  
9997 established by the division under Section [62A-7-104](#) or the eligibility criteria under Subsection  
9998 (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.

9999 (e) If a minor is taken into custody and admitted to a secure detention or shelter  
10000 facility, facility staff shall:

10001 (i) immediately notify the minor's parents, guardian, or custodian; and

10002 (ii) promptly notify the court of the placement.

10003 (f) If the minor is admitted to a secure detention or shelter facility outside the county of  
10004 the minor's residence and it is determined in the hearing held under Subsection [78A-6-113](#)(3)  
10005 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of  
10006 the minor's residence to transport the minor to a detention or shelter facility as provided in this  
10007 section.

10008 (6) A person may be taken into custody by a peace officer without a court order if the  
10009 person is in apparent violation of a protective order or if there is reason to believe that a child is

10010 being abused by the person and any of the situations outlined in Section [77-7-2](#) exist.

10011 Section 124. Section **78A-6-319** is amended to read:

10012 **78A-6-319. Educational neglect of a child -- Procedures -- Defenses.**

10013 (1) With regard to a child who is the subject of a petition under this chapter based on  
10014 educational neglect:

10015 (a) if allegations include failure of a child to make adequate educational progress, the  
10016 court shall permit demonstration of the child's educational skills and abilities based upon any of  
10017 the criteria used in granting school credit, in accordance with Section [~~53A-11-102.5~~]

10018 [53G-6-702](#);

10019 (b) parental refusal to comply with actions taken by school authorities in violation of  
10020 [~~Sections 53A-13-101.1~~] [Section 53G-10-202](#), [~~53A-13-101.2~~] [53G-10-205](#), [53G-10-403](#), or  
10021 [~~53A-13-101.3~~] [53G-10-203](#), does not constitute educational neglect;

10022 (c) parental refusal to support efforts by a school to encourage a child to act in  
10023 accordance with any educational objective that focuses on the adoption or expression of a  
10024 personal philosophy, attitude, or belief that is not reasonably necessary to maintain order and  
10025 discipline in the school, prevent unreasonable endangerment of persons or property, or to  
10026 maintain concepts of civility and propriety appropriate to a school setting, does not constitute  
10027 educational neglect; and

10028 (d) an allegation of educational neglect may not be sustained, based solely on a child's  
10029 absence from school, unless the child has been absent from school or from any given class,  
10030 without good cause, for more than 10 consecutive school days or more than 1/16 of the  
10031 applicable school term.

10032 (2) A child may not be considered to be educationally neglected, for purposes of this  
10033 chapter:

10034 (a) unless there is clear and convincing evidence that:

10035 (i) the child has failed to make adequate educational progress, and school officials have  
10036 complied with the requirements of Section [~~53A-11-103~~] [53G-6-206](#); and

10037 (ii) the child is two or more years behind the local public school's age group  
10038 expectations in one or more basic skills, and is not receiving special educational services or  
10039 systematic remediation efforts designed to correct the problem;

10040 (b) if the child's parent or guardian establishes by a preponderance of the evidence that:

10041 (i) school authorities have failed to comply with the requirements of [~~Title 53A,~~  
 10042 ~~Chapter 11, Students in Public Schools, or Chapter 13, Curriculum in the Public Schools~~] Title  
 10043 53G, Public Education System -- Local Administration;

10044 (ii) the child is being instructed at home in compliance with Section [~~53A-11-102~~]  
 10045 53G-6-204;

10046 (iii) there is documentation that the child has demonstrated educational progress at a  
 10047 level commensurate with the child's ability;

10048 (iv) the parent, guardian, or other person in control of the child has made a good faith  
 10049 effort to secure the child's regular attendance in school;

10050 (v) good cause or a valid excuse exists for the child's absence from school;

10051 (vi) the child is not required to attend school pursuant to court order or is exempt under  
 10052 other applicable state or federal law;

10053 (vii) the student has performed above the twenty-fifth percentile of the local public  
 10054 school's age group expectations in all basic skills, as measured by a standardized academic  
 10055 achievement test administered by the school district where the student resides; or

10056 (viii) the parent or guardian has proffered a reasonable alternative to required school  
 10057 curriculum, in accordance with Section [~~53A-13-101.2~~] 53G-10-205 or 53G-10-403, that  
 10058 alternative was rejected by the school district, but the parents have implemented the alternative  
 10059 curriculum; or

10060 (c) if the child is attending school on a regular basis.

10061 Section 125. Section ~~78A-6-602~~ is amended to read:

10062 **78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal**  
 10063 **referral -- Citation -- Failure to appear.**

10064 (1) A proceeding in a minor's case is commenced by petition, except as provided in  
 10065 Sections ~~78A-6-701~~, ~~78A-6-702~~, and ~~78A-6-703~~.

10066 (2) (a) A peace officer or a public official of the state, a county, city, or town charged  
 10067 with the enforcement of the laws of the state or local jurisdiction shall file a formal referral  
 10068 with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a  
 10069 detention facility, the formal referral shall be filed with the juvenile court within 72 hours,  
 10070 excluding weekends and holidays. A formal referral under Section [~~53A-11-911~~] 53G-8-211  
 10071 may not be filed with the juvenile court on an offense unless the offense is subject to referral

10072 under Section [~~53A-11-911~~] [53G-8-211](#).

10073 (b) When the court is informed by a peace officer or other person that a minor is or  
10074 appears to be within the court's jurisdiction, the probation department shall make a preliminary  
10075 inquiry to determine whether the minor is eligible to enter into a written consent agreement  
10076 with the probation department and, if the minor is a child, the minor's parent, guardian, or  
10077 custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2). The court's  
10078 probation department shall offer a nonjudicial adjustment if the minor:

10079 (i) is referred with a misdemeanor, infraction, or status offense;

10080 (ii) has fewer than three prior adjudications; and

10081 (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

10082 (c) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a  
10083 validated risk and needs assessment and may request that the prosecutor review the referral  
10084 pursuant to Subsection (2)(g) to determine whether to dismiss the referral or file a petition  
10085 instead of offering a nonjudicial adjustment if:

10086 (A) the results of the assessment indicate the youth is high risk; or

10087 (B) the results of the assessment indicate the youth is moderate risk and the referral is  
10088 for a class A misdemeanor violation under Title 76, Chapter 5, or Title 76, Chapter 9, Part 7,  
10089 Miscellaneous Provisions.

10090 (ii) The court's probation department, may offer a nonjudicial adjustment to any other  
10091 minor who does not meet the criteria provided in Subsection (2)(b).

10092 (iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an  
10093 admission of guilt.

10094 (iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to  
10095 pay a financial penalty under Subsection (2)(d).

10096 (v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than  
10097 90 days without leave of a judge of the court, who may extend the period for an additional 90  
10098 days.

10099 (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of  
10100 the nonjudicial closure:

10101 (i) payment of a financial penalty of not more than \$250 to the juvenile court subject to  
10102 the terms established under Subsection (2)(e);

- 10103 (ii) payment of victim restitution;
- 10104 (iii) satisfactory completion of compensatory service;
- 10105 (iv) referral to an appropriate provider for counseling or treatment;
- 10106 (v) attendance at substance use disorder programs or counseling programs;
- 10107 (vi) compliance with specified restrictions on activities and associations; and
- 10108 (vii) other reasonable actions that are in the interest of the child or minor and the
- 10109 community.
- 10110 (e) A fee, fine, or restitution included in a nonjudicial closure in accordance with
- 10111 Subsection (2)(d) shall be based upon the ability of the minor's family to pay as determined by
- 10112 a statewide sliding scale developed as provided in Section [63M-7-208](#) on and after July 1,
- 10113 2018.
- 10114 (f) If a minor fails to substantially comply with the conditions agreed upon as part of
- 10115 the nonjudicial closure, or if a minor is not offered or declines a nonjudicial adjustment
- 10116 pursuant to Subsection (2)(b) or (2)(c)(ii), the prosecutor shall review the case and take one of
- 10117 the following actions:
- 10118 (i) dismiss the case;
- 10119 (ii) refer the case back to the probation department for a new attempt at nonjudicial
- 10120 adjustment; or
- 10121 (iii) in accordance with Subsections (2)(h), file a petition with the court.
- 10122 (g) Notwithstanding Subsection (2)(f), a petition may only be filed upon reasonable
- 10123 belief that:
- 10124 (i) the charges are supported by probable cause;
- 10125 (ii) admissible evidence will be sufficient to support conviction beyond a reasonable
- 10126 doubt; and
- 10127 (iii) the decision to charge is in the interests of justice.
- 10128 (h) Failure to pay a fine or fee may not serve as a basis for filing of a petition under
- 10129 Subsection (2)(f)(iii) if the minor has substantially complied with the other conditions agreed
- 10130 upon in accordance with Subsection (2)(d) or those imposed through any other court diversion
- 10131 program.
- 10132 (i) A violation of Section [76-10-105](#) that is subject to the jurisdiction of the juvenile
- 10133 court may include a fine or penalty and participation in a court-approved tobacco education

10134 program, which may include a participation fee.

10135 (j) If the prosecutor files a petition in court, the court may refer the case to the  
10136 probation department for another offer of nonjudicial adjustment.

10137 (3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor  
10138 14 years of age or older, the county attorney, district attorney, or attorney general may  
10139 commence an action by filing a criminal information and a motion requesting the juvenile court  
10140 to waive its jurisdiction and certify the minor to the district court.

10141 (4) (a) In cases of violations of wildlife laws, boating laws, class B and class C  
10142 misdemeanors, other infractions or misdemeanors as designated by general order of the Board  
10143 of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the  
10144 juvenile court, a petition is not required and the issuance of a citation as provided in Section  
10145 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is  
10146 required.

10147 (b) Any failure to comply with the time deadline on a formal referral may not be the  
10148 basis of dismissing the formal referral.

10149 Section 126. Section 78A-6-603 is amended to read:

10150 **78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to**  
10151 **appear.**

10152 (1) As used in this section, "citation" means an abbreviated referral and is sufficient to  
10153 invoke the jurisdiction of the court in lieu of a petition.

10154 (2) A citation shall be submitted to the court within five days of issuance.

10155 (3) A copy of the citation shall contain:

10156 (a) the name and address of the juvenile court before which the minor may be required  
10157 to appear;

10158 (b) the name of the minor cited;

10159 (c) the statute or local ordinance that is alleged to have been violated;

10160 (d) a brief description of the offense charged;

10161 (e) the date, time, and location at which the offense is alleged to have occurred;

10162 (f) the date the citation was issued;

10163 (g) the name and badge or identification number of the peace officer or public official  
10164 who issued the citation;

10165 (h) the name of the arresting person if an arrest was made by a private party and the  
10166 citation was issued in lieu of taking the arrested minor into custody as provided in Section  
10167 [78A-6-112](#);

10168 (i) the date and time when the minor is to appear, or a statement that the minor and  
10169 parent or legal guardian are to appear when notified by the juvenile court; and

10170 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to  
10171 appear at the juvenile court as designated on the citation.

10172 (4) A copy of the citation shall contain space for the following information to be  
10173 entered if known:

10174 (a) the minor's address;

10175 (b) the minor's date of birth;

10176 (c) the name and address of the child's custodial parent or legal guardian, if different  
10177 from the child; and

10178 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that  
10179 this information shall be removed from the documents the minor receives.

10180 (5) A citation received by the court beyond the time designated in Subsection (2) shall  
10181 include a written explanation for the delay.

10182 (6) In accordance with Section [~~53A-11-911~~] [53G-8-211](#), the following offenses may  
10183 be sent to the juvenile court as a citation:

10184 (a) violations of wildlife laws;

10185 (b) violations of boating laws;

10186 (c) violations of curfew laws;

10187 (d) any class B misdemeanor or less traffic violations where the person is under the age  
10188 of 16;

10189 (e) any class B or class C misdemeanor or infraction;

10190 (f) any other infraction or misdemeanor as designated by general order of the Board of  
10191 Juvenile Court Judges; and

10192 (g) violations of Section [76-10-105](#) subject to the jurisdiction of the juvenile court.

10193 (7) A minor offense defined under Section [78A-6-1202](#), alleged to have been  
10194 committed by an enrolled child on school property or related to school attendance, may only be  
10195 sent to the prosecutor or the juvenile court in accordance with Section [~~53A-11-911~~]

10196 [53G-8-211](#).

10197 (8) A preliminary inquiry by the prosecutor, and if appropriate, the court, under Section  
10198 [78A-6-117](#) is required.

10199 (9) Subsection (5) may not apply to a runaway child.

10200 (10) (a) A minor receiving a citation described in this section shall appear at the  
10201 juvenile court designated in the citation on the time and date specified in the citation or when  
10202 notified by the juvenile court.

10203 (b) A citation may not require a minor to appear sooner than five days following its  
10204 issuance.

10205 (11) A minor who receives a citation and willfully fails to appear before the juvenile  
10206 court pursuant to a citation may be found in contempt of court. The court may proceed against  
10207 the minor as provided in Section [78A-6-1101](#).

10208 (12) When a citation is issued under this section, bail may be posted and forfeited  
10209 under Section [78A-6-113](#) with the consent of:

10210 (a) the court; and

10211 (b) if the minor is a child, the parent or legal guardian of the child cited.

10212 Section 127. Section **78A-6-1001** is amended to read:

10213 **78A-6-1001. Jurisdiction over adults for offenses against minors -- Proof of**  
10214 **delinquency not required for conviction.**

10215 (1) The court shall have jurisdiction, concurrent with the district court or justice court  
10216 otherwise having subject matter jurisdiction, to try adults for the following offenses committed  
10217 against minors:

10218 (a) unlawful sale or furnishing of an alcoholic product to minors in violation of Section  
10219 [32B-4-403](#);

10220 (b) failure to report abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,  
10221 Child Abuse or Neglect Reporting Requirements;

10222 (c) harboring a runaway in violation of Section [62A-4a-501](#);

10223 (d) misdemeanor custodial interference in violation of Section [76-5-303](#);

10224 (e) contributing to the delinquency of a minor in violation of Section [76-10-2301](#); and

10225 (f) failure to comply with compulsory education requirements in violation of Section

10226 [~~53A-11-101.5~~] [53G-6-202](#).

10227 (2) It is not necessary for the minor to be found to be delinquent or to have committed  
10228 a delinquent act for the court to exercise jurisdiction under Subsection (1).

10229 Section 128. Section **78A-6-1203** is amended to read:

10230 **78A-6-1203. Youth court -- Authorization -- Referral.**

10231 (1) Youth court is a diversion program that provides an alternative disposition for cases  
10232 involving juvenile offenders in which youth participants, under the supervision of an adult  
10233 coordinator, may serve in various capacities within the courtroom, acting in the role of jurors,  
10234 lawyers, bailiffs, clerks, and judges.

10235 (a) Youth who appear before youth courts have been identified by law enforcement  
10236 personnel, school officials, a prosecuting attorney, or the juvenile court as having committed  
10237 acts which indicate a need for intervention to prevent further development toward juvenile  
10238 delinquency, but which appear to be acts that can be appropriately addressed outside the  
10239 juvenile court process.

10240 (b) Youth courts may only hear cases as provided for in this part.

10241 (c) Youth court is a diversion program and not a court established under the Utah  
10242 Constitution, Article VIII.

10243 (2) A youth court may not accept referrals from law enforcement, schools, prosecuting  
10244 attorneys, or a juvenile court unless the youth court is certified by the Utah Youth Court Board.

10245 (3) Any person may refer youth to a youth court for minor offenses or for any other  
10246 eligible offense under Section [~~53A-11-911~~] [53G-8-211](#). Once a referral is made, the case  
10247 shall be screened by an adult coordinator to determine whether it qualifies as a youth court  
10248 case.

10249 (4) Youth courts have authority over youth:

10250 (a) referred for one or more minor offenses or who are referred for other eligible  
10251 offenses under Section [~~53A-11-911~~] [53G-8-211](#), or who are granted permission for referral  
10252 under this part;

10253 (b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing,  
10254 request youth court involvement; and

10255 (c) who, along with a parent, guardian, or legal custodian, agree to follow the youth  
10256 court disposition of the case.

10257 (5) Except with permission granted under Subsection (6), or pursuant to Section

10258 [~~53A-11-911~~] [53G-8-211](#), youth courts may not exercise authority over youth who are under  
10259 the continuing jurisdiction of the juvenile court for law violations, including any youth who  
10260 may have a matter pending which has not yet been adjudicated. Youth courts may, however,  
10261 exercise authority over youth who are under the continuing jurisdiction of the juvenile court as  
10262 set forth in this Subsection (5) if the offense before the youth court is not a law violation, and  
10263 the referring agency has notified the juvenile court of the referral.

10264 (6) Youth courts may exercise authority over youth described in Subsection (5), and  
10265 over any other offense with the permission of the juvenile court and the prosecuting attorney in  
10266 the county or district that would have jurisdiction if the matter were referred to juvenile court.

10267 (7) Permission of the juvenile court may be granted by a probation officer of the court  
10268 in the district that would have jurisdiction over the offense being referred to youth court.

10269 (8) Youth courts may decline to accept a youth for youth court disposition for any  
10270 reason and may terminate a youth from youth court participation at any time.

10271 (9) A youth or the youth's parent, guardian, or legal custodian may withdraw from the  
10272 youth court process at any time. The youth court shall immediately notify the referring source  
10273 of the withdrawal.

10274 (10) The youth court may transfer a case back to the referring source for alternative  
10275 handling at any time.

10276 (11) Referral of a case to youth court may not, if otherwise eligible, prohibit the  
10277 subsequent referral of the case to any court.

10278 (12) Proceedings and dispositions of a youth court may only be shared with the  
10279 referring agency, juvenile court, and victim.

10280 (13) When a person does not complete the terms ordered by a youth court, and if the  
10281 case is referred to a juvenile court, the youth court shall provide the case file to the juvenile  
10282 court.

10283 Section 129. **Repealer.**

10284 This bill repeals:

10285 Section [53A-1-414](#), **School expenditures -- Report.**

10286 Section [53A-1-901](#), **Title.**

10287 Section [53A-1-904](#), **No Child Left Behind -- State implementation.**

10288 Section [53A-1-1101](#), **Title.**

10289 Section **53A-1-1201**, Title.  
10290 Section **53A-1-1301**, Title.  
10291 Section **53A-1-1401**, Title.  
10292 Section **53A-1-1501**, Title.  
10293 Section **53A-1a-101**, Short title.  
10294 Section **53A-1a-501**, Short title.  
10295 Section **53A-1a-701**, Title.  
10296 Section **53A-1b-101**, Title.  
10297 Section **53A-1b-201**, Title.  
10298 Section **53A-2-401**, Title.  
10299 Section **53A-4-301**, Title.  
10300 Section **53A-6-101**, Title.  
10301 Section **53A-8a-101**, Title.  
10302 Section **53A-11-1201**, Title.  
10303 Section **53A-11-1501**, Title.  
10304 Section **53A-11-1601**, Title.  
10305 Section **53A-11a-101**, Title.  
10306 Section **53A-15-1001**, Title.  
10307 Section **53A-15-1201**, Title.  
10308 Section **53A-15-1501**, Title.  
10309 Section **53A-15-1701**, Title.  
10310 Section **53A-15-1801**, Title.  
10311 Section **53A-15-1901**, Title.  
10312 Section **53A-15-2001**, Title.  
10313 Section **53A-17a-101**, Title.  
10314 Section **53A-20b-101**, Title.  
10315 Section **53A-21-101**, Title.  
10316 Section **53A-25a-101**, Title.  
10317 Section **53A-25b-101**, Title.  
10318 Section **53A-28-101**, Title.  
10319 Section **53A-30-101**, Title.

10320 Section **53A-31-101**, Title.

10321 Section **53A-31-401**, Title.

10322 Section 130. **Effective date.**

10323 Section 131. **Effective date.**

10324 If approved by two-thirds of all the members elected to each house, this bill takes effect  
10325 upon approval by the governor, or the day following the constitutional time limit of Utah  
10326 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
10327 the date of veto override.

10328 Section 132. **Revisor instructions.**

10329 The Legislature intends that the Office of Legislative Research and General Counsel, in  
10330 preparing the Utah Code database for publication, not enroll this bill if any of the following  
10331 bills do not pass:

10332 (1) H.B. 10, Public Education Recodification - State System;

10333 (2) H.B. 11, Public Education Recodification - Funding; or

10334 (3) S.B. 11, Public Education Recodification - Local System.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**