

REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, and correcting numbering.

Highlighted Provisions:

This bill:

- modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, correcting numbering, and fixing errors that were created from the previous year's session.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-11-102, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-41a-103, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-301, as renumbered and amended by Laws of Utah 2018, Third Special Session,



28 Chapter 1
29 **7-25-205**, as enacted by Laws of Utah 2015, Chapter 284
30 **10-6-106**, as last amended by Laws of Utah 2014, Chapters 176, 253, 377 and last
31 amended by Coordination Clause, Laws of Utah 2014, Chapter 253
32 **10-9a-401**, as last amended by Laws of Utah 2018, Chapter 218
33 **11-54-102**, as enacted by Laws of Utah 2016, Chapter 180
34 **17-31-2**, as last amended by Laws of Utah 2018, Chapter 240
35 **17-36-4**, as last amended by Laws of Utah 2013, Chapter 413
36 **17-52a-403**, as renumbered and amended by Laws of Utah 2018, Chapter 68
37 **17-52a-406**, as renumbered and amended by Laws of Utah 2018, Chapter 68
38 **17B-2a-823**, as last amended by Laws of Utah 2011, Chapter 366
39 **20A-2-204**, as last amended by Laws of Utah 2018, Chapter 206
40 **20A-7-101**, as last amended by Laws of Utah 2017, Chapter 291
41 **26-18-416**, as enacted by Laws of Utah 2018, Chapter 384
42 **26-18-503**, as last amended by Laws of Utah 2017, Chapter 443
43 **26-36c-205**, as enacted by Laws of Utah 2018, Chapter 468
44 **26-36c-210**, as enacted by Laws of Utah 2018, Chapter 468
45 **26-61a-103**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
46 Chapter 1
47 **26-61a-104**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
48 Chapter 1
49 **26-61a-106**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
50 Chapter 1
51 **26-61a-301**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
52 Chapter 1
53 **26-61a-401**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
54 Chapter 1
55 **26-61a-504**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
56 Chapter 1
57 **26-61a-507**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
58 Chapter 1

59 **26-61a-601**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
60 **26-61a-602**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
61 **26-61a-606**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
62 **26-61a-611**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
63 **26-63-102**, as enacted by Laws of Utah 2018, Chapter 430
64 **26-63-301**, as enacted by Laws of Utah 2018, Chapter 430
65 **26-63-401**, as enacted by Laws of Utah 2018, Chapter 430
66 **26-63-402**, as enacted by Laws of Utah 2018, Chapter 430
67 **30-3-10**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
68 **31A-22-618**, as last amended by Laws of Utah 2017, Chapter 292
69 **34A-2-407**, as last amended by Laws of Utah 2018, Chapter 268
70 **34A-2-704**, as last amended by Laws of Utah 2018, Chapter 207
71 **34A-3-108**, as last amended by Laws of Utah 2016, Chapter 242
72 **35A-8-608**, as enacted by Laws of Utah 2018, Chapter 312
73 **35A-8-609**, as enacted by Laws of Utah 2018, Chapter 312
74 **35A-8-1601**, as renumbered and amended by Laws of Utah 2012, Chapter 212
75 **35A-8-1604**, as renumbered and amended by Laws of Utah 2012, Chapter 212
76 **35A-8-1701**, as renumbered and amended by Laws of Utah 2012, Chapter 212
77 **35A-8-1702**, as renumbered and amended by Laws of Utah 2012, Chapter 212
78 **35A-8-1703**, as renumbered and amended by Laws of Utah 2012, Chapter 212
79 **35A-8-1704**, as last amended by Laws of Utah 2013, Chapter 400
80 **35A-8-1707**, as renumbered and amended by Laws of Utah 2012, Chapter 212
81 **41-3-110**, as enacted by Laws of Utah 2015, Chapter 93
82 **41-6a-505**, as last amended by Laws of Utah 2018, Chapter 334
83 **46-5-108**, as enacted by Laws of Utah 2018, Chapter 100
84 **48-4-102**, as enacted by Laws of Utah 2018, Chapter 201
85 **48-4-301**, as enacted by Laws of Utah 2018, Chapter 201
86 **51-9-203**, as last amended by Laws of Utah 2012, Chapter 242
87 **51-9-408**, as last amended by Laws of Utah 2014, Chapter 267
88 **53-2a-203**, as renumbered and amended by Laws of Utah 2013, Chapter 295
89 **53-3-219**, as last amended by Laws of Utah 2014, Chapter 314

- 90 **53-5c-201**, as last amended by Laws of Utah 2017, Chapter 334
- 91 **53-9-122**, as enacted by Laws of Utah 2018, Chapter 462
- 92 **53-10-108**, as last amended by Laws of Utah 2018, Chapters 417 and 427
- 93 **53-10-202.3**, as enacted by Laws of Utah 2017, Chapter 296
- 94 **53B-26-102**, as last amended by Laws of Utah 2018, Chapter 421
- 95 **53D-1-102**, as last amended by Laws of Utah 2018, Chapters 415 and 448
- 96 **53E-9-305**, as last amended by Laws of Utah 2018, Chapter 304 and renumbered and
- 97 amended by Laws of Utah 2018, Chapter 1
- 98 **53F-2-203**, as last amended by Laws of Utah 2018, Chapters 448, 456 and renumbered
- 99 and amended by Laws of Utah 2018, Chapter 2
- 100 **53F-2-409**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 101 **53F-2-414**, as enacted by Laws of Utah 2018, Chapter 464
- 102 **53F-2-704**, as enacted by Laws of Utah 2018, Chapter 2 and last amended by Laws of
- 103 Utah 2018, Chapters 211, 300, 383, and 456
- 104 **53F-6-301**, as last amended by Laws of Utah 2018, Chapter 389 and renumbered and
- 105 amended by Laws of Utah 2018, Chapter 2
- 106 **53G-5-413**, as enacted by Laws of Utah 2018, Chapter 3
- 107 **53G-8-508**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 108 **53G-11-509**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 109 **54-17-807**, as enacted by Laws of Utah 2018, Chapter 219
- 110 **58-1-307**, as last amended by Laws of Utah 2017, Chapter 326
- 111 **58-31b-308**, as last amended by Laws of Utah 2005, Chapters 50 and 134
- 112 **58-31b-401**, as last amended by Laws of Utah 2013, Chapter 364
- 113 **58-55-305**, as last amended by Laws of Utah 2018, Chapter 318
- 114 **58-61-714**, as enacted by Laws of Utah 2015, Chapter 367
- 115 **58-67-304**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 116 **58-68-304**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 117 **58-80a-102**, as last amended by Laws of Utah 2017, Chapter 305
- 118 **59-1-306**, as last amended by Laws of Utah 2018, Chapter 442
- 119 **59-1-1409**, as enacted by Laws of Utah 2009, Chapter 212
- 120 **59-2-1004**, as last amended by Laws of Utah 2018, Chapter 277

- 121 [59-12-103](#), as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018
- 122 [59-12-104](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 123 [59-12-205](#), as last amended by Laws of Utah 2018, Chapters 258, 312, and 330
- 124 [59-13-402](#), as last amended by Laws of Utah 2009, Chapters 222 and 358
- 125 [59-13-403](#), as last amended by Laws of Utah 2006, Chapter 322
- 126 [59-14-802](#), as enacted by Laws of Utah 2015, Chapter 132
- 127 [61-1-11](#), as last amended by Laws of Utah 2009, Chapter 351
- 128 [62A-2-101](#), as last amended by Laws of Utah 2018, Chapters 252 and 316
- 129 [62A-4a-201](#), as last amended by Laws of Utah 2017, Chapter 330
- 130 [62A-15-1101](#), as last amended by Laws of Utah 2018, Chapters 38, 414, and 415
- 131 [63A-14-405](#), as enacted by Laws of Utah 2018, Chapter 461
- 132 [63A-15-303](#), as enacted by Laws of Utah 2018, Chapter 461
- 133 [63G-6a-103](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter
- 134 4
- 135 [63H-1-205](#), as enacted by Laws of Utah 2018, Chapter 442
- 136 [63I-1-226](#), as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 137 [63I-1-231](#), as last amended by Laws of Utah 2018, Chapter 183
- 138 [63I-1-234](#), as last amended by Laws of Utah 2018, Chapter 416
- 139 [63I-1-253](#), as last amended by Laws of Utah 2018, Chapters 107, 117, 385, 415, and
- 140 453
- 141 [63I-1-257](#), as last amended by Laws of Utah 2018, Chapter 281
- 142 [63I-1-276](#), as enacted by Laws of Utah 2014, Chapter 226
- 143 [63I-1-278](#), as last amended by Laws of Utah 2018, Chapter 25
- 144 [63I-2-210](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6
- 145 [63I-2-217](#), as last amended by Laws of Utah 2018, Chapter 68 and further amended by
- 146 Revisor Instructions, Laws of Utah 2018, Chapter 456
- 147 [63I-2-220](#), as last amended by Laws of Utah 2018, Chapters 187 and 458
- 148 [63I-2-232](#), as last amended by Laws of Utah 2018, Chapters 249 and 313
- 149 [63I-2-253](#), as last amended by Laws of Utah 2018, Chapters 107, 281, 382, 415, and
- 150 456
- 151 [63I-2-262](#), as last amended by Laws of Utah 2018, Chapter 38

- 152 **63I-2-272**, as last amended by Laws of Utah 2017, Chapter 427
- 153 **63J-1-201**, as last amended by Laws of Utah 2017, Chapter 466
- 154 **63J-1-220**, as last amended by Laws of Utah 2018, Chapters 415 and 456
- 155 **63J-1-602.1**, as last amended by Laws of Utah 2018, Chapters 114, 347, 430 and
- 156 repealed and reenacted by Laws of Utah 2018, Chapter 469
- 157 **63J-1-602.2**, as repealed and reenacted by Laws of Utah 2018, Chapter 469
- 158 **63J-1-801**, as enacted by Laws of Utah 2018, Chapter 312
- 159 **63M-7-210**, as enacted by Laws of Utah 2018, Chapter 54
- 160 **63N-2-503**, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and
- 161 amended by Laws of Utah 2015, Chapter 283
- 162 **63N-2-504**, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and
- 163 amended by Laws of Utah 2015, Chapter 283
- 164 **63N-4-404**, as enacted by Laws of Utah 2018, Chapter 340
- 165 **63N-6-202**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 166 **63N-7-301**, as last amended by Laws of Utah 2015, Chapter 301 and renumbered and
- 167 amended by Laws of Utah 2015, Chapter 283
- 168 **75-6-401**, as enacted by Laws of Utah 2018, Chapter 26
- 169 **75-6-402**, as enacted by Laws of Utah 2018, Chapter 26
- 170 **75-6-403**, as enacted by Laws of Utah 2018, Chapter 26
- 171 **75-6-404**, as enacted by Laws of Utah 2018, Chapter 26
- 172 **75-6-416**, as enacted by Laws of Utah 2018, Chapter 26
- 173 **75-6-417**, as enacted by Laws of Utah 2018, Chapter 26
- 174 **75-6-419**, as enacted by Laws of Utah 2018, Chapter 26
- 175 **76-5-110**, as last amended by Laws of Utah 2011, Chapter 366
- 176 **76-6-412**, as last amended by Laws of Utah 2018, Chapter 265
- 177 **77-41-102**, as last amended by Laws of Utah 2017, Chapter 434
- 178 **78A-6-302**, as last amended by Laws of Utah 2018, Chapter 91
- 179 **78A-6-306**, as last amended by Laws of Utah 2018, Chapter 91
- 180 **78A-6-312**, as last amended by Laws of Utah 2018, Chapter 91
- 181 **78A-6-1103**, as last amended by Laws of Utah 2014, Chapter 265
- 182 **78A-6-1302**, as last amended by Laws of Utah 2017, Chapter 330

- 183 **78A-7-106**, as last amended by Laws of Utah 2017, Chapter 330
- 184 **78B-6-112**, as last amended by Laws of Utah 2018, Chapter 359
- 185 **78B-6-812**, as last amended by Laws of Utah 2018, Chapter 291
- 186 **78B-7-107**, as last amended by Laws of Utah 2018, Chapter 255
- 187 **78B-12-402**, as last amended by Laws of Utah 2018, Chapter 21

188

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

190 Section 1. Section **4-11-102** is amended to read:

191 **4-11-102. Definitions.**

192 As used in this chapter:

193 (1) "Abandoned apiary" means any apiary to which the owner or operator fails to give
194 reasonable and adequate attention during a given year as determined by the department.

195 (2) "Apiary" means any place where one or more colonies of bees are located.

196 (3) "Apiary equipment" means hives, supers, frames, veils, gloves, or other equipment
197 used to handle or manipulate bees, honey, wax, or hives.

198 (4) "Appliance" means any apparatus, tool, machine, or other device used to handle or
199 manipulate bees, wax, honey, or hives.

200 (5) "Bee" means the common honey bee, *Apis mellifera*, at any stage of development.

201 (6) (a) "Beekeeper" means a person who keeps bees.

202 (b) "Beekeeper" includes an apiarist.

203 (7) "Colony" means an aggregation of bees in any type of hive that includes queens,
204 workers, drones, or brood.

205 (8) "Disease" means any infectious or contagious disease affecting bees, as specified by
206 the department, including American foulbrood.

207 (9) "Hive" means a frame hive, box hive, box, barrel, log, gum skep, or other artificial
208 or natural receptacle that may be used to house bees.

209 (10) "Package" means any number of bees in a bee-tight container, with or without a
210 queen, and without comb.

211 (11) "Parasite" means an organism that parasitizes any developmental stage of a bee.

212 (12) "Pest" means an organism that:

213 (a) inflicts damage to a bee or bee colony directly or indirectly; or

214 (b) may damage apiary equipment in a manner that is likely to have an adverse [affect]
215 effect on the health of the colony or an adjacent colony.

216 (13) "Raise" means:

217 (a) to hold a colony of bees in a hive for the purpose of pollination, honey production,
218 or study, or a similar purpose; and

219 (b) when the person holding a colony holds the colony or a package of bees in the state
220 for a period of time exceeding 30 days.

221 (14) "Terminal disease" means a pest, parasite, or pathogen that will kill an occupant
222 colony or subsequent colony on the same equipment.

223 Section 2. Section **4-41a-103** is amended to read:

224 **4-41a-103. Inventory control system.**

225 (1) Each cannabis production establishment, each medical cannabis pharmacy, and the
226 state central fill medical cannabis pharmacy shall maintain an inventory control system that
227 meets the requirements of this section.

228 (2) A cannabis production establishment, a medical cannabis pharmacy, and the state
229 central fill medical cannabis pharmacy shall ensure that the inventory control system
230 maintained by the establishment or pharmacy:

231 (a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis
232 plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form
233 of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

234 (b) maintains in real time a record of the amount of cannabis and cannabis products in
235 the possession of the establishment or pharmacy;

236 (c) includes a video recording system that:

237 (i) tracks all handling and processing of cannabis or a cannabis product in the
238 establishment or pharmacy;

239 (ii) is tamper proof; and

240 (iii) stores a video record for at least 45 days; and

241 (d) preserves compatibility with the state electronic verification system described in
242 Section [26-61a-103](#).

243 (3) A cannabis production establishment, a medical cannabis pharmacy, and the state
244 central fill medical cannabis pharmacy shall allow the department or the Department of Health

245 access to the cannabis production establishment's, medical cannabis pharmacy's, or state central
246 fill medical cannabis pharmacy's inventory control system at any time.

247 (4) The department may establish compatibility standards for an inventory control
248 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
249 Rulemaking Act.

250 (5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
251 Administrative Rulemaking Act, establishing requirements for aggregate or batch records
252 regarding the planting and propagation of cannabis before being tracked in an inventory control
253 system described in this section.

254 (b) The department shall ensure that the rules described in Subsection (5)(a) address
255 record-keeping for the amount of planted seed, number of cuttings taken, date and time of
256 cutting and planting, number of plants established, and number of plants culled or dead.

257 Section 3. Section **4-41a-301** is amended to read:

258 **4-41a-301. Cannabis production establishment agent -- Registration.**

259 (1) An individual may not act as a cannabis production establishment agent unless the
260 department registers the individual as a cannabis production establishment agent.

261 (2) The following individuals, regardless of the individual's status as a qualified
262 medical provider, may not serve as a cannabis production establishment agent, have a financial
263 or voting interest of 2% or greater in a cannabis production establishment, or have the power to
264 direct or cause the management or control of a cannabis production establishment:

265 (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

266 (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
267 Practice Act;

268 (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
269 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

270 (d) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

271 (3) An independent cannabis testing laboratory agent may not act as an agent for a
272 medical cannabis pharmacy, the state central fill medical cannabis pharmacy, a cannabis
273 processing facility, or a cannabis cultivation facility.

274 (4) (a) The department shall, within 15 business days after the day on which the
275 department receives a complete application from a cannabis production establishment on

276 behalf of a prospective cannabis production establishment agent, register and issue a cannabis
277 production establishment agent registration card to the prospective agent if the cannabis
278 production establishment:

279 (i) provides to the department:

280 (A) the prospective agent's name and address;

281 (B) the name and location of a licensed cannabis production establishment where the
282 prospective agent will act as the cannabis production establishment's agent; and

283 (C) the submission required under Subsection (4)(b); and

284 (ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5),
285 the department sets in accordance with Section 63J-1-504.

286 (b) Each prospective agent described in Subsection (4)(a) shall:

287 (i) submit to the department:

288 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

289 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
290 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
291 Generation Identification System's Rap Back Service; and

292 (ii) consent to a fingerprint background check by:

293 (A) the Bureau of Criminal Identification; and

294 (B) the Federal Bureau of Investigation.

295 (c) The Bureau of Criminal Identification shall:

296 (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against
297 the applicable state, regional, and national criminal records databases, including the Federal
298 Bureau of Investigation Next Generation Identification System;

299 (ii) report the results of the background check to the department;

300 (iii) maintain a separate file of fingerprints that prospective agents submit under
301 Subsection (4)(b) for search by future submissions to the local and regional criminal records
302 databases, including latent prints;

303 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
304 Generation Identification System's Rap Back Service for search by future submissions to
305 national criminal records databases, including the Next Generation Identification System and
306 latent prints; and

307 (v) establish a privacy risk mitigation strategy to ensure that the department only
308 receives notifications for an individual with whom the department maintains an authorizing
309 relationship.

310 (d) The department shall:

311 (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an
312 amount that the department sets in accordance with Section 63J-1-504 for the services that the
313 Bureau of Criminal Identification or another authorized agency provides under this section; and

314 (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal
315 Identification.

316 (5) The department shall designate, on an individual's cannabis production
317 establishment agent registration card:

318 (a) the name of the cannabis production establishment where the individual is
319 registered as an agent; and

320 (b) the type of cannabis production establishment for which the individual is
321 authorized to act as an agent.

322 (6) A cannabis production establishment agent shall comply with:

323 (a) a certification standard that the department develops; or

324 (b) a third-party certification standard that the department designates by rule, in
325 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

326 (7) The department shall ensure that the certification standard described in Subsection
327 (6) includes training:

328 (a) in Utah medical cannabis law;

329 (b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

330 (c) for a cannabis processing facility agent, in cannabis processing, manufacturing
331 safety procedures for items for human consumption, and sanitation best practices; and

332 (d) for an independent cannabis testing laboratory agent, in cannabis testing best
333 practices.

334 (8) For an individual who holds or applies for a cannabis production establishment
335 agent registration card:

336 (a) the department may revoke or refuse to issue the card if the individual violates the
337 requirements of this chapter; and

338 (b) the department shall revoke or refuse to issue the card if the individual is convicted
339 under state or federal law of:

340 (i) a felony; or

341 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

342 (9) (a) A cannabis production establishment agent registration card expires two years
343 after the day on which the department issues the card.

344 (b) A cannabis production establishment agent may renew the agent's registration card
345 if the agent:

346 (i) is eligible for a cannabis production establishment registration card under this
347 section;

348 (ii) certifies to the department in a renewal application that the information in
349 Subsection (4)(a) is accurate or updates the information; and

350 (iii) pays to the department a renewal fee in an amount that:

351 (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section
352 63J-1-504; and

353 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
354 comparison to the original application process.

355 Section 4. Section 7-25-205 is amended to read:

356 **7-25-205. Issuance of license.**

357 (1) Upon the filing of a complete application, the commissioner shall investigate the
358 financial condition and responsibility, financial and business experience, character, and general
359 fitness of the applicant. The commissioner may conduct an on-site investigation of the
360 applicant, the reasonable cost of which is to be borne by the applicant in accordance with
361 Subsection 7-1-401[(7)](6).

362 (2) The commissioner shall issue a license to the applicant authorizing the applicant to
363 engage in the licensed activities in this state if the commissioner finds that:

364 (a) the applicant's business will be conducted honestly, fairly, and in a manner
365 commanding the confidence and trust of the community;

366 (b) the applicant has fulfilled the requirements imposed by this chapter; and

367 (c) the applicant has paid the required original license fee under Section 7-1-401.

368 Section 5. Section 10-6-106 is amended to read:

369 **10-6-106. Definitions.**

370 As used in this chapter:

371 (1) "Account group" is defined by generally accepted accounting principles as reflected
372 in the Uniform Accounting Manual for Utah Cities.373 (2) "Appropriation" means an allocation of money by the governing body for a specific
374 purpose.375 (3) (a) "Budget" means a plan of financial operations for a fiscal period which
376 embodies estimates of proposed expenditures for given purposes and the proposed means of
377 financing them.378 (b) "Budget" may refer to the budget of a particular fund for which a budget is required
379 by law or it may refer collectively to the budgets for all such funds.380 [~~(4) "Budgetary fund" means a fund for which a budget is required.~~]381 [~~(5)~~] (4) "Budget officer" means the city auditor in a city of the first and second class,
382 the mayor or some person appointed by the mayor with the approval of the city council in a city
383 of the third, fourth, or fifth class, the mayor in the council-mayor optional form of government,
384 or the person designated by the charter in a charter city.385 [~~(6)~~] (5) "Budget period" means the fiscal period for which a budget is prepared.386 (6) "Budgetary fund" means a fund for which a budget is required.387 (7) "Check" means an order in a specific amount drawn upon a depository by an
388 authorized officer of a city.

389 (8) "City general fund" means the general fund used by a city.

390 (9) "Current period" means the fiscal period in which a budget is prepared and adopted,
391 i.e., the fiscal period next preceding the budget period.392 (10) "Department" means any functional unit within a fund that carries on a specific
393 activity, such as a fire or police department within a city general fund.394 (11) "Encumbrance system" means a method of budgetary control in which part of an
395 appropriation is reserved to cover a specific expenditure by charging obligations, such as
396 purchase orders, contracts, or salary commitments to an appropriation account at their time of
397 origin. Such obligations cease to be encumbrances when paid or when the actual liability is
398 entered on the city's books of account.

399 (12) "Enterprise fund" means a fund as defined by the Governmental Accounting

400 Standards Board that is used by a municipality to report an activity for which a fee is charged to
401 users for goods or services.

402 (13) "Estimated revenue" means the amount of revenue estimated to be received from
403 all sources during the budget period in each fund for which a budget is being prepared.

404 (14) "Financial officer" means the mayor in the council-mayor optional form of
405 government or the city official as authorized by Section [10-6-158](#).

406 (15) "Fiscal period" means the annual or biennial period for accounting for fiscal
407 operations in each city.

408 (16) "Fund" is as defined by generally accepted accounting principles as reflected in
409 the Uniform Accounting Manual for Utah Cities.

410 (17) "Fund balance," "retained earnings," and "deficit" have the meanings commonly
411 accorded such terms under generally accepted accounting principles as reflected in the Uniform
412 Accounting Manual for Utah Cities.

413 (18) "General fund" is as defined by the Governmental Accounting Standards Board as
414 reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office
415 of the Utah State Auditor.

416 (19) "Governing body" means a city council, or city commission, as the case may be,
417 but the authority to make any appointment to any position created by this chapter is vested in
418 the mayor in the council-mayor optional form of government.

419 (20) "Interfund loan" means a loan of cash from one fund to another, subject to future
420 repayment.

421 (21) "Last completed fiscal period" means the fiscal period next preceding the current
422 period.

423 (22) (a) "Public funds" means any money or payment collected or received by an
424 officer or employee of the city acting in an official capacity and includes money or payment to
425 the officer or employee for services or goods provided by the city, or the officer or employee
426 while acting within the scope of employment or duty.

427 (b) "Public funds" does not include money or payments collected or received by an
428 officer or employee of a city for charitable purposes if the mayor or city council has consented
429 to the officer's or employee's participation in soliciting contributions for a charity.

430 (23) "Special fund" means any fund other than the city general fund.

431 (24) "Utility" means a utility owned by a city, in whole or in part, that provides
432 electricity, gas, water, or sewer, or any combination of them.

433 (25) "Warrant" means an order drawn upon the city treasurer, in the absence of
434 sufficient money in the city's depository, by an authorized officer of a city for the purpose of
435 paying a specified amount out of the city treasury to the person named or to the bearer as
436 money becomes available.

437 Section 6. Section **10-9a-401** is amended to read:

438 **10-9a-401. General plan required -- Content.**

439 (1) In order to accomplish the purposes of this chapter, each municipality shall prepare
440 and adopt a comprehensive, long-range general plan for:

441 (a) present and future needs of the municipality; and

442 (b) growth and development of all or any part of the land within the municipality.

443 (2) The general plan may provide for:

444 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic
445 activities, aesthetics, and recreational, educational, and cultural opportunities;

446 (b) the reduction of the waste of physical, financial, or human resources that result
447 from either excessive congestion or excessive scattering of population;

448 (c) the efficient and economical use, conservation, and production of the supply of:

449 (i) food and water; and

450 (ii) drainage, sanitary, and other facilities and resources;

451 (d) the use of energy conservation and solar and renewable energy resources;

452 (e) the protection of urban development;

453 (f) if the municipality is a town, the protection or promotion of moderate income
454 housing;

455 (g) the protection and promotion of air quality;

456 (h) historic preservation;

457 (i) identifying future uses of land that are likely to require an expansion or significant
458 modification of services or facilities provided by each affected entity; and

459 (j) an official map.

460 (3) (a) The general plan of a municipality, other than a town, shall plan for moderate
461 income housing growth.

462 (b) On or before July 1, 2019, each of the following that have a general plan that does
463 not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection
464 (3)(a):

465 (i) a city of the first, second, third, or fourth class;

466 (ii) a city of the fifth class with a population of 5,000 or more, if the city is located
467 within a county of the first, second, or third class;

468 (iii) a metro township with a population of 5,000 or more; and

469 (iv) a metro township with a population of less than 5,000, if the metro township is
470 located within a county of the first, second, or third class.

471 (c) The population figures described in Subsections (3)(b)(ii), (iii), and (iv) shall be
472 derived from:

473 (i) the most recent official census or census estimate of the United States Census
474 Bureau; or

475 (ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the
476 Utah Population [Estimates] Committee.

477 (4) Subject to Subsection 10-9a-403(2), the municipality may determine the
478 comprehensiveness, extent, and format of the general plan.

479 Section 7. Section 11-54-102 is amended to read:

480 **11-54-102. Definitions.**

481 As used in this chapter:

482 (1) "Buyback purchaser" means a person who buys a procurement item from the local
483 government entity to which the person previously sold the procurement item.

484 (2) "Excess repurchase amount" means the difference between:

485 (a) the amount a buyback purchaser pays to a local government entity to purchase a
486 procurement item that the buyback purchaser previously sold to the local government entity;
487 and

488 (b) the amount the local government entity paid to the buyback purchaser to purchase
489 the procurement item.

490 (3) "Local government entity" means a county, city, town, metro township, local
491 district, special service district, community [~~development and renewal~~] reinvestment agency,
492 conservation district, or school district that is not subject to Title 63G, Chapter 6a, Utah

493 Procurement Code.

494 (4) "Procurement item" means the same as that term is defined in Section [63G-6a-103](#).

495 Section 8. Section **17-31-2** is amended to read:

496 **17-31-2. Purposes of transient room tax and expenditure of revenues -- Purchase**
497 **or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions --**
498 **Issuance of bonds.**

499 (1) Any county legislative body may impose the transient room tax provided for in
500 Section [59-12-301](#) for the purposes of:

501 (a) establishing and promoting recreation, tourism, film production, and conventions;

502 (b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

503 (i) convention meeting rooms;

504 (ii) exhibit halls;

505 (iii) visitor information centers;

506 (iv) museums;

507 (v) sports and recreation facilities including practice fields, stadiums, and arenas; and

508 (vi) related facilities;

509 (c) acquiring land, leasing land, or making payments for construction or infrastructure
510 improvements required for or related to the purposes listed in Subsection (1)(b); and

511 (d) as required to mitigate the impacts of recreation, tourism, or conventions in
512 counties of the fourth, fifth, and sixth class, paying for:

513 (i) solid waste disposal operations;

514 (ii) emergency medical services;

515 (iii) search and rescue activities;

516 (iv) law enforcement activities; and

517 (v) road repair and upgrade of:

518 (A) class B roads, as defined in Section [72-3-103](#);

519 (B) class C roads, as defined in Section [72-3-104](#); or

520 (C) class D roads, as defined in Section [72-3-105](#).

521 (2) Except as provided in Subsection (4), a county may not expend more than 1/3 of
522 the revenues generated by the transient room tax provided in Section [59-12-301](#) for any
523 combination of the following purposes:

- 524 (a) (i) acquiring, leasing, constructing, furnishing, maintaining, or operating:
- 525 (A) convention meeting rooms;
- 526 (B) exhibit halls;
- 527 (C) visitor information centers;
- 528 (D) museums;
- 529 (E) sports and recreation facilities including practice fields, stadiums, and arenas; and
- 530 (F) related facilities; and

531 (ii) acquiring land, leasing land, or making payments for construction or infrastructure
532 improvements required for or related to the purposes described in Subsection (2)(a)(i);

533 (b) as required to mitigate the impacts of recreation, tourism, or conventions in
534 counties of the fourth, fifth, and sixth class, to pay for:

- 535 (i) solid waste disposal operations;
- 536 (ii) emergency medical services;
- 537 (iii) search and rescue activities;
- 538 (iv) law enforcement activities; and
- 539 (v) road repair and upgrade of:
 - 540 (A) class B roads, as defined in Section [72-3-103](#);
 - 541 (B) class C roads, as defined in Section [72-3-104](#); or
 - 542 (C) class D roads, as defined in Section [72-3-105](#); or
 - 543 (c) making the annual payment of principal, interest, premiums, and necessary reserves

544 for any or the aggregate of bonds authorized under Subsection (3).

545 (3) (a) The county legislative body may issue bonds or cause bonds to be issued, as
546 permitted by law, to pay all or part of any costs incurred for the purposes set forth in
547 Subsection (2)(a) or (b) that are permitted to be paid from bond proceeds.

548 (b) Except as provided in Subsection (4), if the revenues generated by the transient
549 room tax provided in Section [59-12-301](#) are not needed for payment of principal, interest,
550 premiums, and reserves on bonds issued as provided in Subsection (2)(c), the county legislative
551 body shall expend those revenues as provided in Subsection (1), subject to the limitation of
552 Subsection (2).

553 (4) If, on or after October 1, 2006, a county legislative body imposes a tax or increases
554 the rate of a tax in accordance with Section [59-12-301](#) at a rate that exceeds 3%, the county

555 legislative body:

556 (a) may expend revenues generated by the portion of the rate that exceeds 3% for any
557 purpose described in Subsections (1) through (3); and

558 (b) is not subject to any limits on the amount of revenues that may be expended for a
559 purpose described in Subsection (2).

560 Section 9. Section **17-36-4** is amended to read:

561 **17-36-4. State auditor -- Duties.**

562 (1) The state auditor shall:

563 (a) prescribe a uniform system of fiscal procedures for the several counties;

564 (b) conduct a constant review and modification of such procedures to improve them;

565 (c) prepare and supply each county budget officer with suitable budget forms; and

566 (d) prepare instructional materials, conduct training programs, and render other

567 services deemed necessary to assist counties in implementing the uniform system.

568 (2) The uniform system of procedure may include reasonable exceptions and
569 modifications applicable to counties with a population of 25,000 or less, such population to be
570 determined by the Utah Population [Work] Committee. Counties may expand the uniform
571 system to serve better their needs. Deviations from or alterations to the basic prescribed
572 classification system for the identity of funds and accounts should not be made.

573 Section 10. Section **17-52a-403** is amended to read:

574 **17-52a-403. Study committee -- Members -- Powers and duties -- Report --**

575 **Services provided by county.**

576 (1) (a) A study committee consists of seven members.

577 (b) A member of a study committee may not receive compensation for service on the
578 committee.

579 (c) The county legislative body shall reimburse each member of a study committee for
580 necessary expenses incurred in performing the member's duties on the study committee.

581 (2) A study committee may:

582 (a) adopt rules for the study committee's own organization and procedure and to fill a
583 vacancy in its membership;

584 (b) establish advisory boards or committees and include on the advisory boards or
585 committees persons who are not members of the study committee; and

586 (c) request the assistance and advice of any officers or employees of any agency of
587 state or local government.

588 (3) (a) A study committee shall:

589 (i) study the form of government within the county and compare it with other forms
590 available under this chapter;

591 (ii) determine whether the administration of local government in the county could be
592 strengthened, made more clearly responsive or accountable to the people, or significantly
593 improved in the interest of economy and efficiency by a change in the form of county
594 government;

595 (iii) hold public hearings and community forums and other means the committee
596 considers appropriate to disseminate information and stimulate public discussion of the
597 committee's purposes, progress, and conclusions; and

598 (iv) file a written report of the study committee's findings and recommendations with
599 the county executive, the county legislative body, and the county clerk no later than one year
600 after the convening of the study committee's first meeting under Section 17-52a-402.

601 (b) Within 10 days after the day on which the study committee submits the study
602 committee's report under Subsection (3)(a)(iv) to the county legislative body, if the report
603 recommends a change in the form of county government, the county clerk shall send to the
604 county attorney or, if the county does not have a county attorney, to the district attorney, a copy
605 of each optional plan recommended in the report for review in accordance with Section
606 17-52a-406.

607 (4) Each study committee report under Subsection (3)~~(c)~~(a)(iv) shall include:

608 (a) the study committee's recommendation as to whether the form of county
609 government should be changed to another form authorized under this chapter;

610 (b) if the study committee recommends changing the form of government, a complete
611 detailed draft of a proposed plan to change the form of county government, including all
612 necessary implementing provisions; and

613 (c) any additional recommendations the study committee considers appropriate to
614 improve the efficiency and economy of the administration of local government within the
615 county.

616 (5) (a) If the study committee's report recommends a change in the form of county

617 government, the study committee may conduct additional public hearings after filing the report
618 under Subsection (3)~~(d)~~(a)(iv) and, following the hearings and subject to Subsection (5)(b),
619 alter the report.

620 (b) Notwithstanding Subsection (5)(a), the study committee may not make an alteration
621 to the report:

622 (i) that would recommend the adoption of an optional form different from that
623 recommended in the original report; or

624 (ii) within the 120-day period before the election under Section 17-52a-501.

625 (6) Each meeting that the study committee holds shall be open to the public.

626 (7) If the study committee's report does not recommend a change in the form of county
627 government, the report is final, the study committee is dissolved, and the process to change the
628 county's form of government is concluded.

629 (8) The county legislative body shall provide for the study committee:

630 (a) suitable meeting facilities;

631 (b) necessary secretarial services;

632 (c) necessary printing and photocopying services;

633 (d) necessary clerical and staff assistance; and

634 (e) adequate funds for the employment of independent legal counsel and professional
635 consultants that the study committee reasonably determines to be necessary to help the study
636 committee fulfill its duties.

637 Section 11. Section 17-52a-406 is amended to read:

638 **17-52a-406. County or district attorney review of proposed optional plan --**

639 **Conflict with statutory or constitutional provisions -- Processing of optional plan after**
640 **attorney review.**

641 (1) Within 45 days after the day on which the county or district attorney receives the
642 recommended optional plan from the county clerk under Subsection (3)(d), 17-52a-303(3)(c),
643 or 17-52a-403(3)(b) or from the county legislative body under Subsection (3)(c) or
644 17-52a-302(3), the county or district attorney shall send a written report to the county clerk
645 containing the information described in Subsection (2).

646 (2) A report from the county or district attorney under Subsection (1) shall:

647 (a) state the attorney's opinion as to whether implementation of the optional plan

648 described in Subsection (1) would result in a violation of any applicable statutory or
649 constitutional provision;

650 (b) if the attorney concludes that a violation would result:

651 (i) identify specifically each statutory or constitutional provision that implementation
652 of the optional plan would violate;

653 (ii) identify specifically each provision or feature of the proposed optional plan that
654 would result in a statutory or constitutional violation if the plan is implemented; and

655 (iii) recommend how the proposed optional plan may be modified to avoid the
656 statutory or constitutional violation.

657 (3) (a) Except as provided in Subsection (3)(b), (c), or (d), if the attorney determines
658 under Subsection (2) that a violation would occur, the proposed optional plan may not be the
659 subject of an election under Section 17-52a-501.

660 (b) The study committee may:

661 (i) modify an optional plan that the study committee recommends in accordance with
662 Section 17-52a-403 to avoid a violation that a county or district attorney's report describes
663 under Subsection (2); and

664 (ii) file a new report under Subsection 17-52a-403(3)~~(c)~~(a)(iv).

665 (c) A county legislative body may:

666 (i) modify an optional plan that the county legislative body proposes in accordance
667 with Subsection 17-52a-302(1)(b) to avoid a violation that a county or district attorney's report
668 describes under Subsection (2); and

669 (ii) within 10 days of modifying the optional plan, send the modified optional plan to:

670 (A) the county clerk; and

671 (B) the county or district attorney for review in accordance with this section.

672 (d) (i) The petition sponsors may:

673 (A) modify an optional plan that the petition proposes in accordance with Subsection
674 17-52a-303(1)(a)(ii) to avoid a violation that a county or district attorney's report describes
675 under Subsection (2); and

676 (B) submit the modified optional plan to the county clerk.

677 (ii) Upon receipt of a modified optional plan described in Subsection (3)(d)(i), the
678 county clerk shall send the modified optional plan to the county or district attorney for review

679 in accordance with this section.

680 (4) The county executive, county legislative body, county or district attorney, and
681 county clerk shall treat the following as an original:

682 (a) a new report that a study committee files under Subsection

683 [17-52a-403\(3\)](#)~~(d)~~(a)(iv);

684 (b) a modified optional plan that a county legislative body sends under Subsection
685 (3)(c); and

686 (c) a modified optional plan that petition sponsors submit to the county clerk and that
687 the county clerk sends under Subsection (3)(d).

688 (5) If the attorney's report under Subsection (2) does not identify any provisions or
689 features of the proposed optional plan that, if implemented, would violate a statutory or
690 constitutional provision, the proposed optional plan is subject to the provisions described in
691 Section [17-52a-501](#).

692 Section 12. Section **17B-2a-823** is amended to read:

693 **17B-2a-823. Public transit district special services.**

694 (1) As used in this section, "bureau" means a recreational, tourist, or convention bureau
695 ~~[established under Section [17-31-2](#)]~~ under Title 17, Chapter 31, Recreational, Tourist, and
696 Convention Bureaus.

697 (2) (a) A public transit district may lease its buses to private certified public carriers or
698 operate transit services requested by a public entity if a bureau certifies that privately owned
699 carriers furnishing like services or operating like equipment within the area served by the
700 bureau:

701 (i) have declined to provide the service; or

702 (ii) do not have the equipment necessary to provide the service.

703 (b) A public transit district may lease its buses or operate services as authorized under
704 Subsection (2)(a) outside of the area served by the district.

705 (3) If part or all of the transportation services are paid for by public funds, a public
706 transit district may:

707 (a) provide school bus services for transportation of pupils and supervisory personnel
708 between homes and school and other related school activities within the area served by the
709 district; or

710 (b) provide the transportation of passengers covered by a program within the district
711 for people who are elderly or who have a disability.

712 (4) Notwithstanding the provisions in Subsection (3), a municipality or county is not
713 prohibited from providing the transportation services identified in Subsection (3).

714 Section 13. Section **20A-2-204** is amended to read:

715 **20A-2-204. Registering to vote when applying for or renewing a driver license.**

716 (1) As used in this section, "voter registration form" means, when an individual named
717 on a qualifying form, as defined in Section [20A-2-108](#), answers "yes" to the question described
718 in Subsection [20A-2-108\(2\)\(a\)](#), the information on the qualifying form that can be used for
719 voter registration purposes.

720 (2) A citizen who is qualified to vote may register to vote, and a citizen who is
721 qualified to preregister to vote may preregister to vote, by answering "yes" to the question
722 described in Subsection [20A-2-108\(2\)\(a\)](#) and completing the voter registration form.

723 (3) The Driver License Division shall:

724 (a) assist an individual in completing the voter registration form unless the individual
725 refuses assistance;

726 (b) electronically transmit each address change to the lieutenant governor within five
727 days after the day on which the division receives the address change; and

728 (c) within five days after the day on which the division receives a voter registration
729 form, electronically transmit the form to the Office of the Lieutenant Governor, including the
730 following for the individual named on the form:

731 (i) the name, date of birth, driver license or state identification card number, last four
732 digits of the social security number, Utah residential address, place of birth, and signature;

733 (ii) a mailing address, if different from the individual's Utah residential address;

734 (iii) an email address and phone number, if available;

735 (iv) the desired political affiliation, if indicated; and

736 (v) an indication of whether the individual requested that the individual's voter
737 registration record be classified as a private record under Subsection [20A-2-108\(2\)\(c\)](#).

738 (4) Upon receipt of an individual's voter registration form from the Driver License
739 Division under Subsection (3), the lieutenant governor shall:

740 (a) enter the information into the statewide voter registration database; and

741 (b) if the individual requests on the individual's voter registration form that the
742 individual's voter registration record be classified as a private record, classify the individual's
743 voter registration record as a private record.

744 (5) The county clerk of an individual whose information is entered into the statewide
745 voter registration database under Subsection (4) shall:

746 (a) ensure that the individual meets the qualifications to be registered or preregistered
747 to vote; and

748 (b) (i) if the individual meets the qualifications to be registered to vote:

749 (A) ensure that the individual is assigned to the proper voting precinct; and

750 (B) send the individual the notice described in Section 20A-2-304; or

751 (ii) if the individual meets the qualifications to be preregistered to vote, process the
752 form in accordance with the requirements of Section 20A-2-101.1.

753 (6) (a) When the county clerk receives a correctly completed voter registration form
754 under this section, the clerk shall:

755 (i) comply with the applicable provisions of this Subsection (6); or

756 (ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

757 (b) If the county clerk receives a correctly completed voter registration form under this
758 section during the period beginning on the date after the voter registration deadline and ending
759 on the date that is 15 calendar days before the date of an election, the county clerk shall:

760 (i) accept the voter registration form; and

761 (ii) unless the individual is preregistering to vote, inform the individual that the
762 individual is registered to vote in the pending election.

763 (c) If the county clerk receives a correctly completed voter registration form under this
764 section during the period beginning on the date that is 14 calendar days before the election and
765 ending on the date that is seven calendar days before the election, the county clerk shall:

766 (i) accept the voter registration form; and

767 (ii) unless the individual is preregistering to vote, inform the individual that:

768 (A) the individual is registered to vote in the pending election; and

769 (B) for the pending election, the individual must vote on the day of the election or by
770 provisional ballot, under Section 20A-2-207, during the early voting period described in
771 Section 20A-3-601 because the individual registered late.

772 (d) If the county clerk receives a correctly completed voter registration form under this
773 section during the six calendar days before an election, the county clerk shall:

774 (i) accept the application for registration of the individual; and

775 (ii) unless the individual is preregistering to vote, inform the individual:

776 (A) of each manner still available to the individual to timely register to vote in the
777 current election; and

778 (B) that, if the individual does not timely register in a manner described in Subsection
779 ~~[(7)]~~ (6)(d)(ii)(A), the individual is registered to vote but may not vote in the pending election
780 because the individual registered late.

781 (7) (a) If the county clerk determines that an individual's voter registration form
782 received from the Driver License Division is incorrect because of an error, because the form is
783 incomplete, or because the individual does not meet the qualifications to be registered to vote,
784 the county clerk shall mail notice to the individual stating that the individual has not been
785 registered or preregistered because of an error, because the form is incomplete, or because the
786 individual does not meet the qualifications to be registered to vote.

787 (b) If a county clerk believes, based upon a review of a voter registration form, that an
788 individual, who knows that the individual is not legally entitled to register or preregister to
789 vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer
790 the form to the county attorney for investigation and possible prosecution.

791 Section 14. Section **20A-7-101** is amended to read:

792 **20A-7-101. Definitions.**

793 As used in this chapter:

794 (1) "Budget officer" means:

795 (a) for a county, the person designated as budget officer in Section [17-19a-203](#);

796 (b) for a city, the person designated as budget officer in Subsection [10-6-106](#)~~[(5)]~~(4);

797 (c) for a town, the town council; or

798 (d) for a metro township, the person described in Subsection (1)(a) for the county in
799 which the metro township is located.

800 (2) "Certified" means that the county clerk has acknowledged a signature as being the
801 signature of a registered voter.

802 (3) "Circulation" means the process of submitting an initiative or referendum petition

803 to legal voters for their signature.

804 (4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county,
805 city, or town that is holding an election on a ballot proposition.

806 (5) "Final fiscal impact statement" means a financial statement prepared after voters
807 approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or
808 20A-7-502.5(2).

809 (6) "Initial fiscal impact estimate" means:

810 (a) a financial statement prepared under Section 20A-7-202.5 after the filing of an
811 application for an initiative petition; or

812 (b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5
813 for an initiative or referendum petition.

814 (7) "Initiative" means a new law proposed for adoption by the public as provided in
815 this chapter.

816 (8) "Initiative packet" means a copy of the initiative petition, a copy of the proposed
817 law, and the signature sheets, all of which have been bound together as a unit.

818 (9) "Legal signatures" means the number of signatures of legal voters that:

819 (a) meet the numerical requirements of this chapter; and

820 (b) have been certified and verified as provided in this chapter.

821 (10) "Legal voter" means a person who:

822 (a) is registered to vote; or

823 (b) becomes registered to vote before the county clerk certifies the signatures on an
824 initiative or referendum petition.

825 (11) "Local attorney" means the county attorney, city attorney, or town attorney in
826 whose jurisdiction a local initiative or referendum petition is circulated.

827 (12) "Local clerk" means the county clerk, city recorder, or town clerk in whose
828 jurisdiction a local initiative or referendum petition is circulated.

829 (13) (a) "Local law" includes:

830 (i) an ordinance;

831 (ii) a resolution;

832 (iii) a master plan;

833 (iv) a comprehensive zoning regulation adopted by ordinance or resolution; or

- 834 (v) other legislative action of a local legislative body.
- 835 (b) "Local law" does not include an individual property zoning decision.
- 836 (14) "Local legislative body" means the legislative body of a county, city, town, or
- 837 metro township.
- 838 (15) "Local obligation law" means a local law passed by the local legislative body
- 839 regarding a bond that was approved by a majority of qualified voters in an election.
- 840 (16) "Local tax law" means a law, passed by a political subdivision with an annual or
- 841 biannual calendar fiscal year, that increases a tax or imposes a new tax.
- 842 (17) "Measure" means a proposed constitutional amendment, an initiative, or
- 843 referendum.
- 844 (18) "Referendum" means a process by which a law passed by the Legislature or by a
- 845 local legislative body is submitted or referred to the voters for their approval or rejection.
- 846 (19) "Referendum packet" means a copy of the referendum petition, a copy of the law
- 847 being submitted or referred to the voters for their approval or rejection, and the signature
- 848 sheets, all of which have been bound together as a unit.
- 849 (20) (a) "Signature" means a holographic signature.
- 850 (b) "Signature" does not mean an electronic signature.
- 851 (21) "Signature sheets" means sheets in the form required by this chapter that are used
- 852 to collect signatures in support of an initiative or referendum.
- 853 (22) "Sponsors" means the legal voters who support the initiative or referendum and
- 854 who sign the application for petition copies.
- 855 (23) "Sufficient" means that the signatures submitted in support of an initiative or
- 856 referendum petition have been certified and verified as required by this chapter.
- 857 (24) "Tax percentage difference" means the difference between the tax rate proposed
- 858 by an initiative or an initiative petition and the current tax rate.
- 859 (25) "Tax percentage increase" means a number calculated by dividing the tax
- 860 percentage difference by the current tax rate and rounding the result to the nearest thousandth.
- 861 (26) "Verified" means acknowledged by the person circulating the petition as required
- 862 in Sections [20A-7-205](#) and [20A-7-305](#).
- 863 Section 15. Section **26-18-416** is amended to read:
- 864 **26-18-416. Primary Care Network enhancement waiver program.**

865 (1) As used in this section:

866 (a) "CMS" means the Centers for Medicare and Medicaid Services within the United
867 States Department of Health and Human Services.

868 (b) "Enhancement waiver program" means the Primary Care Network enhancement
869 waiver program described in this section.

870 (c) "Federal poverty level" means the poverty guidelines established by the secretary of
871 the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).

872 (d) "Health coverage improvement program" means the same as that term is defined in
873 Section 26-18-411.

874 (e) "Income eligibility ceiling" means the percentage of federal poverty level:

875 (i) established by the Legislature in an appropriations act adopted pursuant to Title 63J,
876 Chapter 1, Budgetary Procedures Act; and

877 (ii) under which an individual may qualify for coverage in the enhancement waiver
878 program in accordance with this section.

879 (f) "Optional population" means the optional expansion population under PPACA if
880 the expansion provides coverage for individuals at or above 95% of the federal poverty level.

881 (g) "PPACA" means the same as that term is defined in Section 31A-1-301.

882 (h) "Primary Care Network" means the state Primary Care Network program created by
883 the Medicaid primary care network demonstration waiver obtained under Section 26-18-3.

884 (2) The department shall continue to implement the Primary Care Network program for
885 qualified individuals under the Primary Care Network program.

886 (3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with
887 CMS to implement, within the state Medicaid program, the enhancement waiver program
888 described in this section within six months after the day on which:

889 (i) the division receives a notice from CMS that the waiver for the Medicaid waiver
890 expansion submitted under Section 26-18-415, Medicaid waiver expansion, will not be
891 approved; or

892 (ii) the division withdraws the waiver for the Medicaid waiver expansion submitted
893 under Section 26-18-415, Medicaid waiver expansion.

894 (b) The division may not apply for a waiver under Subsection (3)(a) while a waiver
895 request under Section 26-18-415, Medicaid waiver expansion, is pending with CMS.

896 (4) An individual who is eligible for the enhancement waiver program may receive the
897 following benefits under the enhancement waiver program:

- 898 (a) the benefits offered under the Primary Care Network program;
- 899 (b) diagnostic testing and procedures;
- 900 (c) medical specialty care;
- 901 (d) inpatient hospital services;
- 902 (e) outpatient hospital services;
- 903 (f) outpatient behavioral health care, including outpatient substance abuse care; and
- 904 (g) for an individual who qualifies for the health coverage improvement program, as
905 approved by CMS, temporary residential treatment for substance abuse in a short term,
906 non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation
907 services that are medically necessary and in accordance with an individualized treatment plan.

908 (5) An individual is eligible for the enhancement waiver program if, at the time of
909 enrollment:

- 910 (a) the individual is qualified to enroll in the Primary Care Network or the health
911 coverage improvement program;
- 912 (b) the individual's annual income is below the income eligibility ceiling established by
913 the Legislature under Subsection (1)(e); and
- 914 (c) the individual meets the eligibility criteria established by the department under
915 Subsection (6).
- 916 (6) (a) Based on available funding and approval from CMS and subject to Subsection
917 (6)(d), the department shall determine the criteria for an individual to qualify for the
918 enhancement waiver program, based on the following priority:
 - 919 (i) adults in the expansion population, as defined in Section [26-18-411](#), who qualify for
920 the health coverage improvement program;
 - 921 (ii) adults with dependent children who qualify for the health coverage improvement
922 program under Subsection [26-18-411\(3\)](#);
 - 923 (iii) adults with dependent children who do not qualify for the health coverage
924 improvement program; and
 - 925 (iv) if funding is available, adults without dependent children.
- 926 (b) The number of individuals enrolled in the enhancement waiver program may not

927 exceed 105% of the number of individuals who were enrolled in the Primary Care Network on
928 December 31, 2017.

929 (c) The department may only use appropriations from the Medicaid Expansion Fund
930 created in Section 26-36b-208 to fund the state portion of the enhancement waiver program.

931 (d) The money deposited into the Medicaid Expansion Fund under Subsections
932 26-36b-208(2)(g) and (2)(h) may only be used to pay the cost of enrolling individuals who
933 qualify for the enhancement waiver program under Subsections (6)(a)(iii) and (iv).

934 (7) The department may request a modification of the income eligibility ceiling and the
935 eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the
936 enhancement waiver program, projected enrollment in the enhancement waiver program, costs
937 to the state, and the state budget.

938 (8) The department may implement the enhancement waiver program by contracting
939 with Medicaid accountable care organizations to administer the enhancement waiver program.

940 (9) In accordance with Subsections 26-18-411(11) and (12), the department may use
941 funds that have been appropriated for the health coverage improvement program to implement
942 the enhancement waiver program.

943 (10) If the department expands the state Medicaid program to the optional population,
944 the department:

945 (a) except as provided in Subsection (11), may not accept any new enrollees into the
946 enhancement waiver program after the day on which the expansion to the optional population
947 is effective;

948 (b) shall suspend the enhancement waiver program within one year after the day on
949 which the expansion to the optional population is effective; and

950 (c) shall work with CMS to maintain the waiver for the enhancement waiver program
951 submitted under Subsection (3) while the enhancement waiver program is suspended under
952 Subsection (10)(b).

953 (11) If, after the expansion to the optional population described in Subsection (10)
954 takes effect, the expansion to the optional population is repealed by either the state or the
955 federal government, the department shall reinstate the enhancement waiver program and
956 continue to accept new enrollees into the enhancement waiver program in accordance with the
957 provisions of this section.

958 Section 16. Section **26-18-503** is amended to read:

959 **26-18-503. Authorization to renew, transfer, or increase Medicaid certified**
960 **programs -- Reimbursement methodology.**

961 (1) (a) The division may renew Medicaid certification of a certified program if the
962 program, without lapse in service to Medicaid recipients, has its nursing care facility program
963 certified by the division at the same physical facility as long as the licensed and certified bed
964 capacity at the facility has not been expanded, unless the director has approved additional beds
965 in accordance with Subsection (5).

966 (b) The division may renew Medicaid certification of a nursing care facility program
967 that is not currently certified if:

968 (i) since the day on which the program last operated with Medicaid certification:

969 (A) the physical facility where the program operated has functioned solely and
970 continuously as a nursing care facility; and

971 (B) the owner of the program has not, under this section or Section **26-18-505**,
972 transferred to another nursing care facility program the license for any of the Medicaid beds in
973 the program; and

974 (ii) the number of beds granted renewed Medicaid certification does not exceed the
975 number of beds certified at the time the program last operated with Medicaid certification,
976 excluding a period of time where the program operated with temporary certification under
977 Subsection **26-18-504**~~(4)~~**(3)**.

978 (2) (a) The division may issue a Medicaid certification for a new nursing care facility
979 program if a current owner of the Medicaid certified program transfers its ownership of the
980 Medicaid certification to the new nursing care facility program and the new nursing care
981 facility program meets all of the following conditions:

982 (i) the new nursing care facility program operates at the same physical facility as the
983 previous Medicaid certified program;

984 (ii) the new nursing care facility program gives a written assurance to the director in
985 accordance with Subsection (4);

986 (iii) the new nursing care facility program receives the Medicaid certification within
987 one year of the date the previously certified program ceased to provide medical assistance to a
988 Medicaid recipient; and

989 (iv) the licensed and certified bed capacity at the facility has not been expanded, unless
990 the director has approved additional beds in accordance with Subsection (5).

991 (b) A nursing care facility program that receives Medicaid certification under the
992 provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing
993 care facility program if the new nursing care facility program:

994 (i) is not owned in whole or in part by the previous nursing care facility program; or

995 (ii) is not a successor in interest of the previous nursing care facility program.

996 (3) The division may issue a Medicaid certification to a nursing care facility program
997 that was previously a certified program but now resides in a new or renovated physical facility
998 if the nursing care facility program meets all of the following:

999 (a) the nursing care facility program met all applicable requirements for Medicaid
1000 certification at the time of closure;

1001 (b) the new or renovated physical facility is in the same county or within a five-mile
1002 radius of the original physical facility;

1003 (c) the time between which the certified program ceased to operate in the original
1004 facility and will begin to operate in the new physical facility is not more than three years;

1005 (d) if Subsection (3)(c) applies, the certified program notifies the department within 90
1006 days after ceasing operations in its original facility, of its intent to retain its Medicaid
1007 certification;

1008 (e) the provider gives written assurance to the director in accordance with Subsection
1009 (4) that no third party has a legitimate claim to operate a certified program at the previous
1010 physical facility; and

1011 (f) the bed capacity in the physical facility has not been expanded unless the director
1012 has approved additional beds in accordance with Subsection (5).

1013 (4) (a) The entity requesting Medicaid certification under Subsections (2) and (3) shall
1014 give written assurances satisfactory to the director or the director's designee that:

1015 (i) no third party has a legitimate claim to operate the certified program;

1016 (ii) the requesting entity agrees to defend and indemnify the department against any
1017 claims by a third party who may assert a right to operate the certified program; and

1018 (iii) if a third party is found, by final agency action of the department after exhaustion
1019 of all administrative and judicial appeal rights, to be entitled to operate a certified program at

1020 the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

1021 (b) If a finding is made under the provisions of Subsection (4)(a)(iii):

1022 (i) the certified program shall immediately surrender its Medicaid certification and
1023 comply with division rules regarding billing for Medicaid and the provision of services to
1024 Medicaid patients; and

1025 (ii) the department shall transfer the surrendered Medicaid certification to the third
1026 party who prevailed under Subsection (4)(a)(iii).

1027 (5) (a) As provided in Subsection 26-18-502(2)(b), the director may approve additional
1028 nursing care facility programs for Medicaid certification, or additional beds for Medicaid
1029 certification within an existing nursing care facility program, if a nursing care facility or other
1030 interested party requests Medicaid certification for a nursing care facility program or additional
1031 beds within an existing nursing care facility program, and the nursing care facility program or
1032 other interested party complies with this section.

1033 (b) The nursing care facility or other interested party requesting Medicaid certification
1034 for a nursing care facility program or additional beds within an existing nursing care facility
1035 program under Subsection (5)(a) shall submit to the director:

1036 (i) proof of the following as reasonable evidence that bed capacity provided by
1037 Medicaid certified programs within the county or group of counties impacted by the requested
1038 additional Medicaid certification is insufficient:

1039 (A) nursing care facility occupancy levels for all existing and proposed facilities will
1040 be at least 90% for the next three years;

1041 (B) current nursing care facility occupancy is 90% or more; or

1042 (C) there is no other nursing care facility within a 35-mile radius of the nursing care
1043 facility requesting the additional certification; and

1044 (ii) an independent analysis demonstrating that at projected occupancy rates the nursing
1045 care facility's after-tax net income is sufficient for the facility to be financially viable.

1046 (c) Any request for additional beds as part of a renovation project are limited to the
1047 maximum number of beds allowed in Subsection (7).

1048 (d) The director shall determine whether to issue additional Medicaid certification by
1049 considering:

1050 (i) whether bed capacity provided by certified programs within the county or group of

1051 counties impacted by the requested additional Medicaid certification is insufficient, based on
1052 the information submitted to the director under Subsection (5)(b);

1053 (ii) whether the county or group of counties impacted by the requested additional
1054 Medicaid certification is underserved by specialized or unique services that would be provided
1055 by the nursing care facility;

1056 (iii) whether any Medicaid certified beds are subject to a claim by a previous certified
1057 program that may reopen under the provisions of Subsections (2) and (3);

1058 (iv) how additional bed capacity should be added to the long-term care delivery system
1059 to best meet the needs of Medicaid recipients; and

1060 (v) (A) whether the existing certified programs within the county or group of counties
1061 have provided services of sufficient quality to merit at least a two-star rating in the Medicare
1062 Five-Star Quality Rating System over the previous three-year period; and

1063 (B) information obtained under Subsection (9).

1064 (6) The department shall adopt administrative rules in accordance with Title 63G,
1065 Chapter 3, Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility
1066 property reimbursement methodology to:

1067 (a) only pay that portion of the property component of rates, representing actual bed
1068 usage by Medicaid clients as a percentage of the greater of:

1069 (i) actual occupancy; or

1070 (ii) (A) for a nursing care facility other than a facility described in Subsection

1071 (6)(a)(ii)(B), 85% of total bed capacity; or

1072 (B) for a rural nursing care facility, 65% of total bed capacity; and

1073 (b) not allow for increases in reimbursement for property values without major
1074 renovation or replacement projects as defined by the department by rule.

1075 (7) (a) Notwithstanding Subsection ~~26-18-504(4)~~(3), if a nursing care facility does
1076 not seek Medicaid certification for a bed under Subsections (1) through (6), the department
1077 shall grant Medicaid certification for additional beds in an existing Medicaid certified nursing
1078 care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility
1079 if:

1080 (i) the nursing care facility program was previously a certified program for all beds but
1081 now resides in a new facility or in a facility that underwent major renovations involving major

1082 structural changes, with 50% or greater facility square footage design changes, requiring review
1083 and approval by the department;

1084 (ii) the nursing care facility meets the quality of care regulations issued by the Center
1085 for Medicare and Medicaid Services; and

1086 (iii) the total number of additional beds in the facility granted Medicaid certification
1087 under this section does not exceed 10% of the number of licensed beds in the facility.

1088 (b) The department may not revoke the Medicaid certification of a bed under this
1089 Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.

1090 (8) (a) If a nursing care facility or other interested party indicates in its request for
1091 additional Medicaid certification under Subsection (5)(a) that the facility will offer specialized
1092 or unique services, but the facility does not offer those services after receiving additional
1093 Medicaid certification, the director shall revoke the additional Medicaid certification.

1094 (b) The nursing care facility program shall obtain Medicaid certification for any
1095 additional Medicaid beds approved under Subsection (5) or (7) within three years of the date of
1096 the director's approval, or the approval is void.

1097 (9) (a) If the director makes an initial determination that quality standards under
1098 Subsection (5)(d)(v) have not been met in a rural county or group of rural counties over the
1099 previous three-year period, the director shall, before approving certification of additional
1100 Medicaid beds in the rural county or group of counties:

1101 (i) notify the certified program that has not met the quality standards in Subsection
1102 (5)(d)(v) that the director intends to certify additional Medicaid beds under the provisions of
1103 Subsection (5)(d)(v); and

1104 (ii) consider additional information submitted to the director by the certified program
1105 in a rural county that has not met the quality standards under Subsection (5)(d)(v).

1106 (b) The notice under Subsection (9)(a) does not give the certified program that has not
1107 met the quality standards under Subsection (5)(d)(v), the right to legally challenge or appeal the
1108 director's decision to certify additional Medicaid beds under Subsection (5)(d)(v).

1109 Section 17. Section **26-36c-205** is amended to read:

1110 **26-36c-205. Calculation of assessment.**

1111 (1) (a) Except as provided in Subsection (1)(b), each private hospital shall pay an
1112 annual assessment due on the last day of each quarter in an amount calculated by the division at

1113 a uniform assessment rate for each hospital discharge, in accordance with this section.

1114 (b) A private teaching hospital with more than 425 beds and more than 60 residents
1115 shall pay an assessment rate 2.5 times the uniform rate established under Subsection (1)(c).

1116 (c) The division shall calculate the uniform assessment rate described in Subsection
1117 (1)(a) by dividing the hospital share for assessed private hospitals, as described in Subsection
1118 [26-36c-204\(1\)](#), by the sum of:

1119 (i) the total number of discharges for assessed private hospitals that are not a private
1120 teaching hospital; and

1121 (ii) 2.5 times the number of discharges for a private teaching hospital, described in
1122 Subsection (1)(b).

1123 (d) The division may make rules in accordance with Title 63G, Chapter 3, Utah
1124 Administrative Rulemaking Act, to adjust the formula described in Subsection (1)(c) to address
1125 unforeseen circumstances in the administration of the assessment under this chapter.

1126 (e) The division shall apply any quarterly changes to the uniform assessment rate
1127 uniformly to all assessed private hospitals.

1128 (2) Except as provided in Subsection (3), for each state fiscal year, the division shall
1129 determine a hospital's discharges as follows:

1130 (a) for state fiscal year 2019, the hospital's cost report data for the hospital's fiscal year
1131 ending between July 1, 2015, and June 30, 2016; and

1132 (b) for each subsequent state fiscal year, the hospital's cost report data for the hospital's
1133 fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

1134 (3) (a) If a hospital's fiscal year Medicare cost report is not contained in the Centers for
1135 Medicare and Medicaid Services' Healthcare Cost Report Information System file:

1136 (i) the hospital shall submit to the division a copy of the hospital's Medicare cost report
1137 applicable to the assessment year; and

1138 (ii) the division shall determine the hospital's discharges.

1139 (b) If a hospital is not certified by the Medicare program and is not required to file a
1140 Medicare cost report:

1141 (i) the hospital shall submit to the division the hospital's applicable fiscal year
1142 discharges with supporting documentation;

1143 (ii) the division shall determine the hospital's discharges from the information

1144 submitted under Subsection (3)~~(c)~~(b)(i); and

1145 (iii) if the hospital fails to submit discharge information, the division shall audit the
1146 hospital's records and may impose a penalty equal to 5% of the calculated assessment.

1147 (4) Except as provided in Subsection (5), if a hospital is owned by an organization that
1148 owns more than one hospital in the state:

1149 (a) the division shall calculate the assessment for each hospital separately; and

1150 (b) each separate hospital shall pay the assessment imposed by this chapter.

1151 (5) If multiple hospitals use the same Medicaid provider number:

1152 (a) the department shall calculate the assessment in the aggregate for the hospitals
1153 using the same Medicaid provider number; and

1154 (b) the hospitals may pay the assessment in the aggregate.

1155 Section 18. Section **26-36c-210** is amended to read:

1156 **26-36c-210. Suspension of assessment.**

1157 (1) The department shall suspend the assessment imposed by this chapter when the
1158 executive director certifies that:

1159 (a) action by Congress is in effect that disqualifies the assessment imposed by this
1160 chapter from counting toward state Medicaid funds available to be used to determine the
1161 amount of federal financial participation;

1162 (b) a decision, enactment, or other determination by the Legislature or by any court,
1163 officer, department, or agency of the state, or of the federal government, is in effect that:

1164 (i) disqualifies the assessment from counting toward state Medicaid funds available to
1165 be used to determine federal financial participation for Medicaid matching funds; or

1166 (ii) creates for any reason a failure of the state to use the assessments for at least one of
1167 the Medicaid programs described in this chapter; or

1168 (c) a change is in effect that reduces the aggregate hospital inpatient and outpatient
1169 payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1,
1170 2015.

1171 (2) If the assessment is suspended under Subsection (1):

1172 (a) the division may not collect any assessment or intergovernmental transfer under this
1173 chapter;

1174 (b) the division shall disburse money in the Medicaid Expansion Fund that was derived

1175 from assessments imposed by this chapter in accordance with the requirements in Subsection
1176 [26-36b-208](#)(4), to the extent federal matching is not reduced by CMS due to the repeal of the
1177 assessment; and

1178 (c) the division shall refund any money remaining in the Medicaid Expansion Fund
1179 after the disbursement described in Subsection (2)(b) that was derived from assessments
1180 imposed by this chapter to the hospitals in proportion to the amount paid by each hospital for
1181 the last three fiscal years.

1182 Section 19. Section **26-61a-103** is amended to read:

1183 **26-61a-103. Electronic verification system.**

1184 (1) The Department of Agriculture and Food, the department, the Department of Public
1185 Safety, and the Department of Technology Services shall:

1186 (a) enter into a memorandum of understanding in order to determine the function and
1187 operation of the state electronic verification system in accordance with Subsection (2);

1188 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
1189 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1190 maintain the state electronic verification system in coordination with the Department of
1191 Technology Services; and

1192 (c) select a third-party provider who meets the requirements contained in the request
1193 for proposals issued under Subsection (1)(b).

1194 (2) The Department of Agriculture and Food, the department, the Department of Public
1195 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
1196 2020, the state electronic verification system described in Subsection (1):

1197 (a) allows an individual, with the individual's qualified medical provider in the qualified
1198 medical provider's office, to apply for a medical cannabis patient card or, if applicable, a
1199 medical cannabis guardian card;

1200 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
1201 cannabis guardian card in accordance with Section [26-61a-201](#);

1202 (c) allows a qualified medical provider to:

1203 (i) access dispensing and card status information regarding a patient:

1204 (A) with whom the qualified medical provider has a provider-patient relationship; and

1205 (B) for whom the qualified medical provider has recommended or is considering

1206 recommending a medical cannabis card;

1207 (ii) electronically recommend, during a visit with a patient, treatment with cannabis in a
1208 medicinal dosage form or a cannabis product in a medicinal dosage form and optionally
1209 recommend dosing parameters;

1210 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
1211 medical cannabis guardian cardholder:

1212 (A) for the qualified medical provider who originally recommended a medical cannabis
1213 treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

1214 (B) for a qualified medical provider who did not originally recommend the medical
1215 cannabis treatment, during a face-to-face visit with a patient; and

1216 (iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment
1217 in accordance with Section 26-61a-603;

1218 (d) connects with:

1219 (i) an inventory control system that a medical cannabis pharmacy and the state central
1220 fill medical cannabis pharmacy use to track in real time and archive purchases of any cannabis
1221 in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical
1222 cannabis device, including:

1223 (A) the time and date of each purchase;

1224 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1225 purchased;

1226 (C) any cannabis production establishment, any medical cannabis pharmacy, or the
1227 state central fill medical cannabis pharmacy associated with the cannabis, cannabis product, or
1228 medical cannabis device; and

1229 (D) the personally identifiable information of the medical cannabis cardholder who
1230 made the purchase; and

1231 (ii) any commercially available inventory control system that a cannabis production
1232 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
1233 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1234 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1235 track and confirm compliance;

1236 (e) provides access to:

- 1237 (i) the department to the extent necessary to carry out the department's functions and
1238 responsibilities under this chapter;
- 1239 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
1240 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1241 41a, Cannabis Production Establishments; and
- 1242 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
1243 carry out the functions and responsibilities related to the participation of the following in the
1244 recommendation and dispensing of medical cannabis:
- 1245 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1246 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1247 Practice Act;
- 1248 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1249 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 1250 (D) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act;
- 1251 (f) provides access to and interaction with the state central fill medical cannabis
1252 pharmacy, state central fill agents, and local health department distribution agents, to facilitate
1253 the state central fill shipment process;
- 1254 (g) provides access to state or local law enforcement:
- 1255 (i) during a traffic stop for the purpose of determining if the individual subject to the
1256 traffic stop is in compliance with state medical cannabis law; or
- 1257 (ii) after obtaining a warrant; and
- 1258 (h) creates a record each time a person accesses the database that identifies the person
1259 who accesses the database and the individual whose records the person accesses.
- 1260 (3) The department may release de-identified data that the system collects for the
1261 purpose of:
- 1262 (a) conducting medical research; and
- 1263 (b) providing the report required by Section [26-61a-703](#).
- 1264 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
1265 Administrative Rulemaking Act, to establish:
- 1266 (a) the limitations on access to the data in the state electronic verification system as
1267 described in this section; and

1268 (b) standards and procedures to ensure accurate identification of an individual
1269 requesting information or receiving information in this section.

1270 (5) (a) Any person who knowingly and intentionally releases any information in the
1271 state electronic verification system in violation of this section is guilty of a third degree felony.

1272 (b) Any person who negligently or recklessly releases any information in the state
1273 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1274 (6) (a) Any person who obtains or attempts to obtain information from the state
1275 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1276 (b) Any person who obtains or attempts to obtain information from the state electronic
1277 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1278 degree felony.

1279 (7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and
1280 intentionally use, release, publish, or otherwise make available to any other person information
1281 obtained from the state electronic verification system for any purpose other than a purpose
1282 specified in this section.

1283 (b) Each separate violation of this Subsection (7) is:

1284 (i) a third degree felony; and

1285 (ii) subject to a civil penalty not to exceed \$5,000.

1286 (c) The department shall determine a civil violation of this Subsection (7) in
1287 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1288 (d) Civil penalties assessed under this Subsection (7) shall be deposited into the
1289 General Fund.

1290 (e) This Subsection (7) does not prohibit a person who obtains information from the
1291 state electronic verification system under Subsection (2)(a), (c), or (f) from:

1292 (i) including the information in the person's medical chart or file for access by a person
1293 authorized to review the medical chart or file;

1294 (ii) providing the information to a person in accordance with the requirements of the
1295 Health Insurance Portability and Accountability Act of 1996; or

1296 (iii) discussing or sharing that information [on] about the patient with the patient.

1297 Section 20. Section **26-61a-104** is amended to read:

1298 **26-61a-104. Qualifying condition.**

1299 (1) By designating a particular condition under Subsection (2) for which the use of
1300 medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively
1301 state that:

1302 (a) current scientific evidence clearly supports the efficacy of a medical cannabis
1303 treatment for the condition; or

1304 (b) a medical cannabis treatment will treat, cure, or positively affect the condition.

1305 (2) For the purposes of this chapter, each of the following conditions is a qualifying
1306 condition:

1307 (a) HIV or acquired immune deficiency syndrome;

1308 (b) Alzheimer's disease;

1309 (c) amyotrophic lateral sclerosis;

1310 (d) cancer;

1311 (e) cachexia;

1312 (f) persistent nausea that is not significantly responsive to traditional treatment, except
1313 for nausea related to:

1314 (i) pregnancy;

1315 (ii) cannabis-induced cyclical vomiting syndrome; or

1316 (iii) cannabinoid hyperemesis syndrome;

1317 (g) Crohn's disease or ulcerative colitis;

1318 (h) epilepsy or debilitating seizures;

1319 (i) multiple sclerosis or persistent and debilitating muscle spasms;

1320 (j) post-traumatic stress disorder that is being treated and monitored by a licensed
1321 mental health therapist, as that term is defined in Section [58-60-102](#), and that:

1322 (i) has been diagnosed by a healthcare provider or mental health provider employed or
1323 contracted by the United States Veterans Administration, evidenced by copies of medical
1324 records from the United States Veterans Administration that are included as part of the
1325 qualified medical provider's pre-treatment assessment and medical record documentation; or

1326 (ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of
1327 the patient, by a provider who is:

1328 (A) a licensed board-eligible or board-certified psychiatrist;

1329 (B) a licensed psychologist with a doctorate-level degree;

- 1330 (C) a licensed clinical social worker with a doctorate-level degree; or
- 1331 (D) a licensed advanced practice registered nurse who is qualified to practice within
- 1332 the psychiatric mental health nursing speciality and who has completed the clinical practice
- 1333 requirements in psychiatric mental health nursing, including in psychotherapy, in accordance
- 1334 with Subsection 58-31b-302(4)(g);
- 1335 (k) autism;
- 1336 (l) a terminal illness when the patient's remaining life expectancy is less than six
- 1337 months;
- 1338 (m) a condition resulting in the individual receiving hospice care;
- 1339 (n) a rare condition or disease that:
- 1340 (i) affects less than 200,000 individuals in the United States, as defined in Section 526
- 1341 of the Federal Food, Drug, and Cosmetic Act; and
- 1342 (ii) is not adequately managed despite treatment attempts using:
- 1343 (A) conventional medications other than opioids or opiates; or
- 1344 (B) physical interventions;
- 1345 (o) pain lasting longer than two weeks that is not adequately managed, in the qualified
- 1346 medical provider's opinion, despite treatment attempts using:
- 1347 (i) conventional medications other than opioids or opiates; or
- 1348 (ii) physical interventions; and
- 1349 (p) a condition that the compassionate use board approves under Section 26-61a-105,
- 1350 on an individual, case-by-case basis.
- 1351 Section 21. Section 26-61a-106 is amended to read:
- 1352 **26-61a-106. Qualified medical provider registration -- Continuing education --**
- 1353 **Treatment recommendation.**
- 1354 (1) An individual may not recommend a medical cannabis treatment unless the
- 1355 department registers the individual as a qualified medical provider in accordance with this
- 1356 section.
- 1357 (2) (a) The department shall, within 15 days after the day on which the department
- 1358 receives an application from an individual, register and issue a qualified medical provider
- 1359 registration card to the individual if the individual:
- 1360 (i) provides to the department the individual's name and address;

- 1361 (ii) provides to the department a report detailing the individual's completion of the
1362 applicable continuing education requirement described in Subsection (3);
- 1363 (iii) provides to the department evidence that the individual:
- 1364 (A) has the authority to write a prescription;
- 1365 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1366 Controlled Substances Act; and
- 1367 (C) possesses the authority, in accordance with the individual's scope of practice, to
1368 prescribe a Schedule II controlled substance;
- 1369 (iv) provides to the department evidence that the individual is:
- 1370 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1371 Practice Act;
- 1372 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1373 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 1374 (C) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act,
1375 whose declaration of services agreement, as that term is defined in Section [58-70a-102](#),
1376 includes the recommending of medical cannabis, and whose supervising physician is a
1377 qualified medical provider; and
- 1378 (v) pays the department a fee in an amount that:
- 1379 (A) the department sets, in accordance with Section [63J-1-504](#); and
- 1380 (B) does not exceed \$300 for an initial registration.
- 1381 (b) The department may not register an individual as a qualified medical provider if the
1382 individual is:
- 1383 (i) a pharmacy medical provider or a state central fill medical provider; or
- 1384 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
1385 production establishment or a medical cannabis pharmacy.
- 1386 (3) (a) An individual shall complete the continuing education described in this
1387 Subsection (3) in the following amounts:
- 1388 (i) for an individual as a condition precedent to registration, four hours; and
- 1389 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
1390 every two years.
- 1391 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1392 (i) complete continuing education:
1393 (A) regarding the topics described in Subsection (3)(d); and
1394 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1395 continuing education provider that the department recognizes as offering continuing education
1396 appropriate for the recommendation of cannabis to patients; and
1397 (ii) make a continuing education report to the department in accordance with a process
1398 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1399 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
1400 Professional Licensing and:
1401 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
1402 Nurse Practice Act, the Board of Nursing;
1403 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1404 Practice Act, the Physicians Licensing Board;
1405 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1406 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
1407 and
1408 (D) for a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant
1409 Act, the Physician Assistant Licensing Board.
1410 (c) The department may, in consultation with the Division of Occupational and
1411 Professional Licensing, develop the continuing education described in this Subsection (3).
1412 (d) The continuing education described in this Subsection (3) may discuss:
1413 (i) the provisions of this chapter;
1414 (ii) general information about medical cannabis under federal and state law;
1415 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1416 including risks and benefits;
1417 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1418 patient in pain management, risk management, potential addiction, or palliative care; and
1419 (v) best practices for recommending the form and dosage of medical cannabis products
1420 based on the qualifying condition underlying a medical cannabis recommendation.
1421 (4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may
1422 not recommend a medical cannabis treatment to more than 175 of the qualified medical

1423 provider's patients at the same time, as determined by the number of medical cannabis cards
1424 under the qualified medical provider's name in the state electronic verification system.

1425 (b) Except as provided in Subsection (4)(c), a qualified medical provider may
1426 recommend a medical cannabis treatment to up to 300 of the qualified medical provider's
1427 patients at any given time, as determined by the number of medical cannabis cards under the
1428 qualified medical provider's name in the state electronic verification system, if:

1429 (i) the appropriate American medical board has certified the qualified medical provider
1430 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
1431 palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or

1432 (ii) a licensed business employs or contracts with the qualified medical provider for the
1433 specific purpose of providing hospice and palliative care.

1434 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in
1435 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for
1436 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of
1437 100 patients per authorization, not to exceed three authorizations.

1438 (ii) The Division of Occupational and Professional Licensing shall grant the
1439 authorization described in Subsection (4)(c)(i) if:

1440 (A) the petitioning qualified medical provider pays a \$100 fee;

1441 (B) the division performs a review that includes the qualified medical provider's
1442 medical cannabis recommendation activity in the state electronic verification system, relevant
1443 information related to patient demand, and any patient medical records that the division
1444 determines would assist in the division's review; and

1445 (C) after the review described in this Subsection (4)(c)(ii), the division determines that
1446 granting the authorization would not adversely affect public safety, adversely concentrate the
1447 overall patient population among too few qualified medical providers, or adversely concentrate
1448 the use of medical cannabis among the provider's patients.

1449 (5) A qualified medical provider may recommend medical cannabis to an individual
1450 under this chapter only in the course of a qualified medical provider-patient relationship after
1451 the qualifying medical provider has completed and documented in the patient's medical record
1452 a thorough assessment of the patient's condition and medical history based on the appropriate
1453 standard of care for the patient's condition.

1454 (6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not
1455 advertise that the qualified medical provider recommends medical cannabis treatment.

1456 (b) For purposes of Subsection (6)(a), the communication of the following, through a
1457 website does not constitute advertising:

1458 (i) a green cross;

1459 (ii) a qualifying condition that the qualified medical provider treats; or

1460 (iii) a scientific study regarding medical cannabis use.

1461 (7) (a) A qualified medical provider registration card expires two years after the day on
1462 which the department issues the card.

1463 (b) The department shall renew a qualified medical provider's registration card if the
1464 provider:

1465 (i) applies for renewal;

1466 (ii) is eligible for a qualified medical provider registration card under this section,
1467 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

1468 (iii) certifies to the department in a renewal application that the information in
1469 Subsection (2)(a) is accurate or updates the information;

1470 (iv) submits a report detailing the completion of the continuing education requirement
1471 described in Subsection (3); and

1472 (v) pays the department a fee in an amount that:

1473 (A) the department sets, in accordance with Section 63J-1-504; and

1474 (B) does not exceed \$50 for a registration renewal.

1475 (8) The department may revoke the registration of a qualified medical provider who
1476 fails to maintain compliance with the requirements of this section.

1477 (9) A qualified medical provider may not receive any compensation or benefit for the
1478 qualified medical provider's medical cannabis treatment recommendation from:

1479 (a) a cannabis production establishment or an owner, officer, director, board member,
1480 employee, or agent of a cannabis production establishment;

1481 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
1482 employee, or agent of a medical cannabis pharmacy; or

1483 (c) a qualified medical provider or pharmacy medical provider.

1484 Section 22. Section 26-61a-301 is amended to read:

1485 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

1486 (1) A person may not operate as a medical cannabis pharmacy without a license that
1487 the department issues under this part.

1488 (2) (a) Subject to Subsections (4) and (5) and to Section [26-61a-305](#), the department
1489 shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to
1490 operate a medical cannabis pharmacy to an applicant who is eligible for a license under this
1491 section.

1492 (b) An applicant is eligible for a license under this section if the applicant submits to
1493 the department:

1494 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
1495 operate the medical cannabis pharmacy;

1496 (ii) the name and address of an individual who:

1497 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis
1498 pharmacy; or

1499 (B) has the power to direct or cause the management or control of a proposed cannabis
1500 production establishment;

1501 (iii) evidence that the applicant has obtained and maintains a performance bond that a
1502 surety authorized to transact surety business in the state issues in an amount of at least
1503 \$125,000 for each application that the applicant submits to the department;

1504 (iv) an operating plan that:

1505 (A) complies with Section [26-61a-304](#); and

1506 (B) includes operating procedures to comply with the operating requirements for a
1507 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
1508 law that is consistent with Section [26-61a-507](#);

1509 (v) if the municipality or county where the proposed medical cannabis pharmacy would
1510 be located requires a local land use permit, a copy of the person's approved application for the
1511 local land use permit; and

1512 (vi) an application fee in an amount that, subject to Subsection [26-61a-109\(5\)](#), the
1513 department sets in accordance with Section [63J-1-504](#).

1514 (c) (i) A person may not locate a medical cannabis pharmacy in or within 600 feet of an
1515 area that the relevant municipality or county has zoned as primarily residential.

1516 (ii) An applicant for a license under this section shall provide evidence of compliance
1517 with the proximity requirement described in Subsection (2)(c)(i).

1518 (d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a
1519 permitted use in all zoning districts within a municipality or county.

1520 (e) If the department receives more than one application for a medical cannabis
1521 pharmacy within the same city or town, the department shall consult with the local land use
1522 authority before approving any of the applications pertaining to that city or town.

1523 (3) If the department determines that an applicant is eligible for a license under this
1524 section, the department shall:

1525 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
1526 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

1527 (b) notify the Department of Public Safety of the license approval and the names of
1528 each individual described in Subsection (2)(b)(ii).

1529 (4) The department may not issue a license to operate a medical cannabis pharmacy to
1530 an applicant if an individual described in Subsection (2)(b)(ii):

1531 (a) has been convicted under state or federal law of:

1532 (i) a felony; or

1533 (ii) after the effective date of this bill, a misdemeanor for drug distribution; or

1534 (b) is younger than 21 years old.

1535 (5) If an applicant for a medical cannabis pharmacy license under this section holds a
1536 license under Title 4, Chapter 41, Hemp and Cannabidiol Act, or Title 4, Chapter 41a,
1537 Cannabis Production Establishments, the department:

1538 (a) shall consult with the Department of Agriculture and Food regarding the applicant;
1539 and

1540 (b) may not give preference to the applicant based on the applicant's status as a holder
1541 of a license described in this Subsection (5).

1542 (6) The department may revoke a license under this part if:

1543 (a) the medical cannabis pharmacy does not begin operations within one year after the
1544 day on which the department issues the initial license;

1545 (b) the medical cannabis pharmacy makes the same violation of this chapter three
1546 times; or

1547 (c) an individual described in Subsection (2)(a)(ii) is convicted, while the license is
1548 active, under state or federal law of:

1549 (i) a felony; or

1550 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

1551 (7) The department shall deposit the proceeds of a fee imposed by this section in the
1552 Qualified Patient Enterprise [~~Account~~] Fund.

1553 (8) The department shall begin accepting applications under this part on or before
1554 March 1, 2020.

1555 (9) The department's authority to issue a license under this section is plenary and is not
1556 subject to review.

1557 Section 23. Section **26-61a-401** is amended to read:

1558 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**

1559 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical
1560 cannabis pharmacy unless the department registers the individual as a medical cannabis
1561 pharmacy agent.

1562 (2) Except as provided in Section **26-61a-403**, the following individuals, regardless of
1563 the individual's status as a qualified medical provider, may not act as a medical cannabis
1564 pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis
1565 pharmacy, or have the power to direct or cause the management or control of a medical
1566 cannabis pharmacy:

1567 (a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1568 Practice Act;

1569 (b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
1570 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1571 (c) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

1572 (3) (a) The department shall, within 15 days after the day on which the department
1573 receives a complete application from a medical cannabis pharmacy on behalf of a prospective
1574 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent
1575 registration card to the prospective agent if the medical cannabis pharmacy:

1576 (i) provides to the department:

1577 (A) the prospective agent's name and address;

1578 (B) the name and location of the licensed medical cannabis pharmacy where the
1579 prospective agent seeks to act as the medical cannabis pharmacy agent; and
1580 (C) the submission required under Subsection (3)(b); and
1581 (ii) pays a fee to the department in an amount that, subject to Subsection
1582 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
1583 (b) Each prospective agent described in Subsection (3)(a) shall:
1584 (i) submit to the department:
1585 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
1586 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
1587 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
1588 Generation Identification System's Rap Back Service; and
1589 (ii) consent to a fingerprint background check by:
1590 (A) the Bureau of Criminal Identification; and
1591 (B) the Federal Bureau of Investigation.
1592 (c) The Bureau of Criminal Identification shall:
1593 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against
1594 the applicable state, regional, and national criminal records databases, including the Federal
1595 Bureau of Investigation Next Generation Identification System;
1596 (ii) report the results of the background check to the department;
1597 (iii) maintain a separate file of fingerprints that prospective agents submit under
1598 Subsection (3)(b) for search by future submissions to the local and regional criminal records
1599 databases, including latent prints;
1600 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
1601 Generation Identification System's Rap Back Service for search by future submissions to
1602 national criminal records databases, including the Next Generation Identification System and
1603 latent prints; and
1604 (v) establish a privacy risk mitigation strategy to ensure that the department only
1605 receives notifications for an individual with whom the department maintains an authorizing
1606 relationship.
1607 (d) The department shall:
1608 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an

1609 amount that the department sets in accordance with Section 63J-1-504 for the services that the
1610 Bureau of Criminal Identification or another authorized agency provides under this section; and

1611 (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal
1612 Identification.

1613 (4) The department shall designate, on an individual's medical cannabis pharmacy
1614 agent registration card the name of the medical cannabis pharmacy where the individual is
1615 registered as an agent.

1616 (5) A medical cannabis pharmacy agent shall comply with a certification standard that
1617 the department develops in collaboration with the Division of Occupational and Professional
1618 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
1619 designates by rule, in collaboration with the Division of Occupational and Professional
1620 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1621 Administrative Rulemaking Act.

1622 (6) The department shall ensure that the certification standard described in Subsection
1623 (5) includes training in:

- 1624 (a) Utah medical cannabis law; and
- 1625 (b) medical cannabis pharmacy best practices.

1626 (7) The department may revoke the medical cannabis pharmacy agent registration card
1627 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual
1628 who:

- 1629 (a) violates the requirements of this chapter; or
- 1630 (b) is convicted under state or federal law of:
 - 1631 (i) a felony; or
 - 1632 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

1633 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the
1634 day on which the department issues or renews the card.

1635 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the
1636 agent:

1637 (i) is eligible for a medical cannabis pharmacy agent registration card under this
1638 section;

1639 (ii) certifies to the department in a renewal application that the information in

1640 Subsection (3)(a) is accurate or updates the information; and
1641 (iii) pays to the department a renewal fee in an amount that:
1642 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1643 Section 63J-1-504; and
1644 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1645 comparison to the original application process.

1646 Section 24. Section 26-61a-504 is amended to read:

1647 **26-61a-504. Inspections.**

1648 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis
1649 treatment recommendation files and other records in accordance with this chapter, department
1650 rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
1651 104-191, 110 Stat. 1936, as amended.

1652 (2) The department may inspect the records and facility of a medical cannabis
1653 pharmacy at any time during business hours in order to determine if the medical cannabis
1654 pharmacy complies with this chapter.

1655 (3) An inspection under this section may include:

1656 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, ~~and~~ or
1657 other physical or electronic information, or any combination of the above;

1658 (b) questioning of any relevant individual; or

1659 (c) inspection of equipment, an instrument, a tool, or machinery, including a container
1660 or label.

1661 (4) In making an inspection under this section, the department may freely access any
1662 area and review and make copies of a book, record, paper, document, data, or other physical or
1663 electronic information, including financial data, sales data, shipping data, pricing data, and
1664 employee data.

1665 (5) Failure to provide the department or the department's authorized agents immediate
1666 access to records and facilities during business hours in accordance with this section may result
1667 in:

1668 (a) the imposition of a civil monetary penalty that the department sets in accordance
1669 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1670 (b) license or registration suspension or revocation; or

1671 (c) an immediate cessation of operations under a cease and desist order that the
1672 department issues.

1673 Section 25. Section **26-61a-507** is amended to read:

1674 **26-61a-507. Local control.**

1675 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or
1676 maintain a license under Section **26-61a-301**, a person shall demonstrate that the intended
1677 medical cannabis pharmacy location is located at least:

1678 (A) 600 feet from a community location's property boundary following the shortest
1679 route of ordinary pedestrian travel;

1680 (B) 200 feet from the patron entrance to the community location's property boundary;
1681 and

1682 (C) 600 feet from an area zoned primarily residential.

1683 (ii) A municipal or county land use authority may recommend in writing that the
1684 department waive the community location proximity requirement described in Subsection
1685 (1)(a)(i).

1686 (b) (i) A municipality or county may not deny or revoke a land use permit to operate a
1687 medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy
1688 violates federal law regarding the legal status of cannabis.

1689 (ii) A municipality or county may not deny or revoke a business license to operate a
1690 medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy
1691 violates federal law regarding the legal status of cannabis.

1692 (2) A municipality or county may enact an ordinance that:

1693 (a) is not in conflict with this chapter; and

1694 (b) governs the time, place, or manner of medical cannabis pharmacy operations in the
1695 municipality or county.

1696 Section 26. Section **26-61a-601** is amended to read:

1697 **26-61a-601. Department to establish state central fill medical cannabis pharmacy**
1698 **-- Duties -- Pharmacy medical provider registration -- Continuing education.**

1699 (1) On or before July 1, 2020, the department shall establish or contract to establish, in
1700 accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central fill medical
1701 cannabis pharmacy as described in this section.

1702 (2) The state central fill medical cannabis pharmacy shall:
1703 (a) procure cannabis that a cannabis processing facility processes into a medicinal
1704 dosage form;
1705 (b) prepare cannabis in medicinal dosage form, a cannabis product in medicinal dosage
1706 form, or a medical cannabis device for shipment to a medical cannabis cardholder under a
1707 qualified medical provider's recommendation to address a qualifying condition;
1708 (c) transport a state central fill shipment, in accordance with Section 26-61a-605, to the
1709 relevant local health department for distribution, in accordance with Section 26-61a-607; and
1710 (d) (i) (A) if the state establishes the state central fill medical cannabis pharmacy,
1711 process and accept payment for a transaction involving a state central fill shipment; or
1712 (B) if the state establishes the state central fill medical cannabis pharmacy by contract,
1713 process prepaid requests for a state central fill shipment from the department; and
1714 (ii) deposit funds that the state central fill medical cannabis pharmacy collects under
1715 Subsection (2)(d)(i) into the Qualified Distribution Enterprise Fund created in Section
1716 26-61a-110.
1717 (3) (a) An individual may not enter a state central fill medical cannabis pharmacy
1718 location unless:
1719 (i) the individual is a state central fill agent or an employee of the state central fill
1720 medical cannabis pharmacy;
1721 (ii) the individual is an employee of the department; or
1722 (iii) a state central fill agent escorts the individual at all times.
1723 (b) An individual who violates Subsection (3)(a) is:
1724 (i) guilty of an infraction; and
1725 (ii) subject to a \$100 fine.
1726 (c) An individual who is guilty of a violation described in Subsection (3)(b) is not
1727 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1728 underlying the violation described in Subsection (3)(b).
1729 (4) (a) The state central fill medical cannabis pharmacy:
1730 (i) shall employ at least one pharmacist who is licensed under Title 58, Chapter 17b,
1731 Pharmacy Practice Act, as a state central fill medical provider;
1732 (ii) may employ a physician who has the authority to write a prescription and is

1733 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
1734 Osteopathic Medical Practice Act, as a state central fill medical provider;

1735 (iii) shall ensure that a state central fill medical provider described in Subsection
1736 (4)(a)(i) works onsite at each location during all business hours;

1737 (iv) shall designate one state central fill medical provider described in Subsection
1738 (4)(a)(i) as the pharmacist-in-charge, as that term is defined in Section 58-17b-102, to oversee
1739 the operation of and generally supervise the state central fill medical cannabis pharmacy; and

1740 (v) may establish more than one location in which the state central fill medical
1741 cannabis pharmacy operates if the department determines, after an analysis of the current and
1742 anticipated market for cannabis in a medicinal dosage form and cannabis products in a
1743 medicinal dosage form, including costs and logistical issues in transportation of state central
1744 fill shipments, that multiple central fill locations are necessary to provide an adequate supply of
1745 state central fill shipments to local health departments for distribution to recipient medical
1746 cannabis cardholders.

1747 (b) An individual may not serve as a state central fill medical provider unless the
1748 department registers the individual as a state central fill medical provider.

1749 (5) (a) The department shall, within 15 days after the day on which the department
1750 receives an application from the state central fill medical cannabis pharmacy on behalf of a
1751 prospective state central fill medical provider, register and issue a state central fill medical
1752 provider registration card to the prospective state central fill medical provider if the state
1753 central fill medical cannabis pharmacy provides to the department:

1754 (i) the prospective state central fill medical provider's name and address; and

1755 (ii) evidence that the prospective state central fill medical provider is:

1756 (A) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1757 or

1758 (B) a physician who has the authority to write a prescription and is licensed under Title
1759 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical
1760 Practice Act.

1761 (b) The department may not register a qualified medical provider or a pharmacy
1762 medical provider as a state central fill medical provider.

1763 (6) (a) A state central fill medical provider shall complete the continuing education

1764 described in this Subsection (6) in the following amounts:

1765 (i) as a condition precedent to registration, four hours; and

1766 (ii) as a condition precedent to renewal, four hours every two years.

1767 (b) In accordance with Subsection (6)(a), the state central fill medical provider shall:

1768 (i) complete continuing education:

1769 (A) regarding the topics described in Subsection (6)(d); and

1770 (B) offered by the department under Subsection (6)(c) or an accredited or approved

1771 continuing education provider that the department recognizes as offering continuing education

1772 appropriate for the medical cannabis pharmacy practice; and

1773 (ii) make a continuing education report to the department in accordance with a process

1774 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah

1775 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and

1776 Professional Licensing and:

1777 (A) for a state central fill medical provider who is licensed under Title 58, Chapter 17b,

1778 Pharmacy Practice Act, the Board of Pharmacy;

1779 (B) for a state central fill medical provider licensed under Title 58, Chapter 67, Utah

1780 Medical Practice Act, the Physicians Licensing Board; and

1781 (C) for a state central fill medical provider licensed under Title 58, Chapter 68, Utah

1782 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

1783 (c) The department may, in consultation with the Division of Occupational and

1784 Professional Licensing, develop the continuing education described in this Subsection (6).

1785 (d) The continuing education described in this Subsection (6) may discuss:

1786 (i) the provisions of this chapter;

1787 (ii) general information about medical cannabis under federal and state law;

1788 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,

1789 including risks and benefits;

1790 (iv) recommendations for medical cannabis as it relates to the continuing care of a

1791 patient in pain management, risk management, potential addiction, and palliative care; or

1792 (v) best practices for recommending the form and dosage of medical cannabis products

1793 based on the qualifying condition underlying the medical cannabis recommendation.

1794 (7) (a) A state central fill medical provider registration card expires two years after the

1795 day on which the department issues or renews the card.

1796 (b) A state central fill medical provider may renew the provider's registration card if
1797 the provider:

1798 (i) is eligible for a state central fill medical provider registration card under this
1799 section;

1800 (ii) certifies to the department in a renewal application that the information in
1801 Subsection (5) is accurate or updates the information; and

1802 (iii) submits a report detailing the completion of the continuing education requirement
1803 described in Subsection (6).

1804 Section 27. Section **26-61a-602** is amended to read:

1805 **26-61a-602. State central fill agent -- Background check -- Registration card --**
1806 **Rebuttable presumption.**

1807 (1) An individual may not serve as a state central fill agent unless:

1808 (a) the individual is an employee of the state central fill medical cannabis pharmacy;
1809 and

1810 (b) the department registers the individual as a state central fill agent.

1811 (2) (a) The department shall, within 15 days after the day on which the department
1812 receives a complete application from the state central fill medical cannabis pharmacy on behalf
1813 of a prospective state central fill agent, register and issue a state central fill agent registration
1814 card to the prospective agent if the state central fill medical cannabis pharmacy:

1815 (i) provides to the department:

1816 (A) the prospective agent's name and address; and

1817 (B) the submission required under Subsection (2)(b); and

1818 (ii) as reported under Subsection (2)(b), has not been convicted under state or federal
1819 law of:

1820 (A) a felony; or

1821 (B) after the effective date of this bill, a misdemeanor for drug distribution.

1822 (b) Each prospective agent described in Subsection (2)(a) shall:

1823 (i) submit to the department:

1824 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

1825 (B) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) acknowledging the

1826 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
1827 Generation Identification System's Rap Back Service; and
1828 (ii) consent to a fingerprint background check by:
1829 (A) the Bureau of Criminal Identification; and
1830 (B) the Federal Bureau of Investigation.
1831 (c) The Bureau of Criminal Identification shall:
1832 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
1833 the applicable state, regional, and national criminal records databases, including the Federal
1834 Bureau of Investigation Next Generation Identification System;
1835 (ii) report the results of the background check to the department;
1836 (iii) maintain a separate file of fingerprints that prospective agents submit under
1837 Subsection (2)(b) for search by future submissions to the local and regional criminal records
1838 databases, including latent prints;
1839 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
1840 Generation Identification System's Rap Back Service for search by future submissions to
1841 national criminal records databases, including the Next Generation Identification System and
1842 latent prints; and
1843 (v) establish a privacy risk mitigation strategy to ensure that the department only
1844 receives notifications for an individual with whom the department maintains an authorizing
1845 relationship.
1846 (d) The department shall:
1847 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
1848 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the
1849 Bureau of Criminal Identification or another authorized agency provides under this section; and
1850 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
1851 Identification.
1852 (3) (a) A state central fill agent shall comply with a certification standard that the
1853 department develops, in collaboration with the Division of Occupational and Professional
1854 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
1855 designates by rule, in collaboration with the Division of Occupational and Professional
1856 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

1857 Administrative Rulemaking Act.

1858 (b) The department shall ensure that the certification standard described in Subsection

1859 (3)(a) includes continuing education in:

1860 (i) Utah medical cannabis law;

1861 (ii) the state central fill medical cannabis pharmacy shipment process; and

1862 (iii) state central fill agent best practices.

1863 (4) The department may revoke or refuse to issue the state central fill agent registration
1864 card of an individual who:

1865 (a) violates the requirements of this chapter; or

1866 (b) is convicted under state or federal law of:

1867 (i) a felony; or

1868 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

1869 (5) (a) A state central fill agent registration card expires two years after the day on
1870 which the department issues or renews the card.

1871 (b) A state central fill agent may renew the agent's registration card if the agent:

1872 (i) is eligible for a state central fill registration card under this section; and

1873 (ii) certifies to the department in a renewal application that the information in

1874 Subsection (2)(a) is accurate or updates the information.

1875 (6) A state central fill agent who the department registers under this section shall carry
1876 the individual's state central fill agent registration card with the individual at all times when:

1877 (a) the individual is on the premises of the state central fill medical cannabis pharmacy;
1878 and

1879 (b) the individual is transporting cannabis in a medicinal dosage form, a cannabis
1880 product in a medicinal dosage form, or a medical cannabis device between a cannabis
1881 production establishment and the state central fill medical cannabis pharmacy.

1882 (7) If an individual handling cannabis, a cannabis product, or a medical cannabis
1883 device handles the cannabis, cannabis product, or medical cannabis device in compliance with
1884 Subsection (6):

1885 (a) there is a rebuttable presumption that the individual possesses the cannabis,
1886 cannabis product, or medical cannabis device legally; and

1887 (b) there is no probable cause, based solely on the individual's handling of the cannabis

1888 in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis
1889 device, that the individual is engaging in illegal activity.

1890 (8) (a) An individual who violates Subsection (6) is:

1891 (i) guilty of an infraction; and

1892 (ii) subject to a \$100 fine.

1893 (b) An individual who is guilty of a violation described in Subsection (8)(a) is not
1894 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1895 underlying the violation described in Subsection (8)(a).

1896 Section 28. Section **26-61a-606** is amended to read:

1897 **26-61a-606. Local health department distribution agent -- Background check --**
1898 **Registration card -- Rebuttable presumption.**

1899 (1) An individual may not serve as a local health department distribution agent unless:

1900 (a) the individual is an employee of a local health department; and

1901 (b) the department registers the individual as a local health department distribution
1902 agent.

1903 (2) (a) The department shall, within 15 days after the day on which the department
1904 receives a complete application from a local health department on behalf of a prospective local
1905 health department distribution agent, register and issue a local health department distribution
1906 agent registration card to the prospective agent if the local health department:

1907 (i) provides to the department:

1908 (A) the prospective agent's name and address;

1909 (B) the name and location of the local health department where the prospective agent
1910 seeks to act as a local health department distribution agent; and

1911 (C) the submission required under Subsection (2)(b); and

1912 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
1913 law of:

1914 (A) a felony; or

1915 (B) after the effective date of this bill, a misdemeanor for drug distribution.

1916 (b) Each prospective agent described in Subsection (2)(a) shall:

1917 (i) submit to the department:

1918 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

- 1919 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
1920 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
1921 Generation Identification System's Rap Back Service; and
- 1922 (ii) consent to a fingerprint background check by:
- 1923 (A) the Bureau of Criminal Identification; and
- 1924 (B) the Federal Bureau of Investigation.
- 1925 (c) The Bureau of Criminal Identification shall:
- 1926 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
1927 the applicable state, regional, and national criminal records databases, including the Federal
1928 Bureau of Investigation Next Generation Identification System;
- 1929 (ii) report the results of the background check to the department;
- 1930 (iii) maintain a separate file of fingerprints that prospective agents submit under
1931 Subsection (2)(b) for search by future submissions to the local and regional criminal records
1932 databases, including latent prints;
- 1933 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
1934 Generation Identification System's Rap Back Service for search by future submissions to
1935 national criminal records databases, including the Next Generation Identification System and
1936 latent prints; and
- 1937 (v) establish a privacy risk mitigation strategy to ensure that the department only
1938 receives notifications for an individual with whom the department maintains an authorizing
1939 relationship.
- 1940 (d) The department shall:
- 1941 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
1942 amount that the department sets in accordance with Section 63J-1-504 for the services that the
1943 Bureau of Criminal Identification or another authorized agency provides under this section; and
- 1944 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
1945 Identification.
- 1946 (3) The department shall designate on an individual's local health department
1947 distribution agent registration card the name of the local health department where the
1948 individual is registered as an agent.
- 1949 (4) (a) A local health department distribution agent shall comply with a certification

1950 standard that the department develops, in collaboration with the Division of Occupational and
1951 Professional Licensing and the Board of Pharmacy, or a third-party certification standard that
1952 the department designates by rule in collaboration with the Division of Occupational and
1953 Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter
1954 3, Utah Administrative Rulemaking Act.

1955 (b) The department shall ensure that the certification standard described in Subsection
1956 (4)(a) includes training in:

- 1957 (i) Utah medical cannabis law;
- 1958 (ii) the state central fill medical cannabis pharmacy shipment process; and
- 1959 (iii) local health department distribution agent best practices.

1960 (5) The department may revoke or refuse to issue or renew the local health department
1961 distribution agent registration card of an individual who:

- 1962 (a) violates the requirements of this chapter; or
- 1963 (b) is convicted under state or federal law of:
 - 1964 (i) a felony; or
 - 1965 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

1966 (6) A local health department distribution agent who the department has registered
1967 under this section shall carry the agent's local health department distribution agent registration
1968 card with the agent at all times when:

- 1969 (a) the agent is on the premises of the local health department; and
- 1970 (b) the agent is handling a shipment of cannabis or cannabis product from the state
1971 central fill medical cannabis pharmacy.

1972 (7) If a local health department distribution agent handling a shipment of cannabis or
1973 cannabis product from the state central fill medical cannabis pharmacy possesses the shipment
1974 in compliance with Subsection (6):

- 1975 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
- 1976 (b) there is no probable cause, based solely on the agent's possession of the shipment
1977 containing medical cannabis in medicinal dosage form, a cannabis product in medicinal dosage
1978 form, or a medical cannabis device, that the agent is engaging in illegal activity.

1979 (8) (a) A local health department distribution agent who violates Subsection (6) is:

- 1980 (i) guilty of an infraction; and

1981 (ii) subject to a \$100 fine.

1982 (b) An individual who is guilty of a violation described in Subsection (8)(a) is not
1983 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
1984 underlying the violation described in Subsection (8)(a).

1985 Section 29. Section **26-61a-611** is amended to read:

1986 **26-61a-611. Advertising.**

1987 (1) Except as provided in Subsection (2), the state central fill medical cannabis
1988 pharmacy may not advertise in any medium.

1989 (2) The state central fill medical cannabis pharmacy may maintain a website that
1990 includes information about:

1991 (a) the contact information for the state central fill medical cannabis pharmacy;

1992 (b) a product or service available through shipment from the state central fill medical
1993 cannabis pharmacy;

1994 (c) a description of the state central fill medical cannabis pharmacy shipment process;

1995 (d) information about retrieving a state central fill shipment at a local health
1996 department; [~~or~~] and

1997 (e) educational material related to the medical use of cannabis.

1998 Section 30. Section **26-63-102** is amended to read:

1999 **26-63-102. Definitions.**

2000 As used in this chapter:

2001 (1) "At-risk individual" means an individual who qualifies for coverage under:

2002 (a) the Children's Health Insurance Program created in Chapter 40, Utah Children's
2003 Health Insurance Act;

2004 (b) the Medicaid program, as defined in Section [26-18-2](#);

2005 (c) the Special Supplemental Nutrition Program for Women, Infants, and Children,
2006 established in 42 U.S.C. Sec. 1786; or

2007 (d) Temporary Assistance for Needy Families, described in 42 U.S.C. Sec. 601 et seq.

2008 (2) "Eligible participant" means an individual who:

2009 (a) is referred to the program as an at-risk individual; and

2010 (b) is appropriate for participation in the program as determined by a service provider.

2011 (3) "Fiscal intermediary entity" means an organization that has the necessary

2012 experience to coordinate the funding and management of a pay-for-success contract.

2013 (4) "Independent evaluator" means a person that is contracted to conduct an annual
2014 evaluation of the performance outcome measures specified in the pay-for-success contract.

2015 (5) "Investor" means a private person that:

2016 (a) provides an up-front cash payment to fund the program; and

2017 (b) receives a success payment if the performance outcome measures are satisfied.

2018 (6) "Pay-for-success contract" means a contract entered into by the department in
2019 accordance with Section 26-63-301.

2020 (7) "Performance outcome measure" means a measurable outcome established by the
2021 department under Section 26-63-302.

2022 (8) "Program" means the Nurse Home Visiting Pay-for-Success Program created in
2023 Section 26-63-201.

2024 (9) "Programmatic intermediary entity" means a private, not-for-profit organization
2025 that enters into a pay-for-success contract with the department to operate the program.

2026 (10) "Qualified nurse" means an individual who is licensed to practice as a registered
2027 nurse in the state.

2028 (11) "Restricted account" means the Nurse Home Visiting Restricted Account created
2029 in Section 26-63-601.

2030 (12) "Service provider" means a person that receives a contract from the programmatic
2031 intermediary entity to provide the services described in Section 26-63-203.

2032 (13) "Success payment" means the amount paid by the department to an investor from
2033 the restricted ~~[fund]~~ account in accordance with the terms of a pay-for-success contract.

2034 Section 31. Section 26-63-301 is amended to read:

2035 **26-63-301. Pay-for-success contract -- Success payments -- Outcome measures.**

2036 The department shall implement a program under this chapter through a pay-for-success
2037 contract, which:

2038 (1) shall include at least all of the following as parties to the contract:

2039 (a) the department;

2040 (b) an independent evaluator;

2041 (c) ~~[an]~~ a programmatic intermediary ~~[agency]~~ entity; and

2042 (d) an investor;

2043 (2) shall include clear performance outcome measures that trigger a success payment;

2044 (3) shall establish a payment schedule for investors if the performance outcome
2045 measures are achieved;

2046 (4) shall only allow repayment with funds appropriated from the restricted account;

2047 (5) shall prohibit civil action by investors against the state if a success payment is not
2048 made because performance outcome measures are not achieved; and

2049 (6) may not, under any circumstance, cause the total outstanding obligations under this
2050 chapter to exceed \$25,000,000.

2051 Section 32. Section **26-63-401** is amended to read:

2052 **26-63-401. Pilot phase.**

2053 (1) Before July 1, 2019, the department shall:

2054 (a) identify whether there is a targetable, high-need population for the implementation
2055 of the home visiting program;

2056 (b) identify service providers that are able to reach the targeted population with the
2057 program; and

2058 (c) gather data needed to make the evaluation in Subsection (3).

2059 (2) The department may:

2060 (a) contract with a third party with the necessary expertise to act as a programmatic
2061 intermediary [~~agency~~] entity to administer the pilot phase described in Subsection (1);

2062 (b) contract with a fiscal intermediary entity to administer the pilot phase described in
2063 Subsection (1); and

2064 (c) execute a single contract with the programmatic intermediary [~~agency~~] entity to
2065 administer the pilot phase described in this section and the implementation phase described in
2066 Section **26-63-402**.

2067 (3) The department shall begin the implementation phase described in Section
2068 **26-63-203** if the department determines that:

2069 (a) there is at least one identifiable high-need population that would benefit from the
2070 program;

2071 (b) there are sufficient service providers to provide services under the program to the
2072 population described in Subsection (3)(a);

2073 (c) there is evidence that the program would produce positive outcomes for the state;

2074 and

2075 (d) there are persons that are qualified and have expressed an interest in serving as:

2076 (i) ~~[an]~~ a programmatic intermediary entity;

2077 (ii) an independent evaluator; and

2078 (iii) an investor.

2079 Section 33. Section **26-63-402** is amended to read:

2080 **26-63-402. Implementation phase.**

2081 (1) If all of the conditions described in Subsection **26-63-401**(3) are satisfied, and after
2082 the department has made the report described in Subsection **26-63-302**(2), the department shall
2083 enter into a pay-for-success contract with a programmatic intermediary entity, an independent
2084 evaluator, and investors to provide the services required under Section **26-63-203**.

2085 (2) The department shall make success payments from the restricted ~~[fund]~~ account to
2086 investors in accordance with the terms of the pay-for-success contract.

2087 (3) The program shall operate for six years.

2088 Section 34. Section **30-3-10** is amended to read:

2089 **30-3-10. Custody of children in case of separation or divorce -- Custody**
2090 **consideration.**

2091 (1) If a married couple having one or more minor children are separated, or their
2092 marriage is declared void or dissolved, the court shall make an order for the future care and
2093 custody of the minor children as it considers appropriate.

2094 (a) In determining any form of custody, including a change in custody, the court shall
2095 consider the best interests of the child without preference for either parent solely because of the
2096 biological sex of the parent and, among other factors the court finds relevant, the following:

2097 (i) in accordance with Subsection (7), the past conduct and demonstrated moral
2098 standards of each of the parties;

2099 (ii) which parent is most likely to act in the best interest of the child, including
2100 allowing the child frequent and continuing contact with the noncustodial parent;

2101 (iii) the extent of bonding between the parent and child, meaning the depth, quality,
2102 and nature of the relationship between a parent and child;

2103 (iv) whether the parent has intentionally exposed the child to pornography or material
2104 harmful to a minor, as defined in Section **76-10-1201**; and

- 2105 (v) those factors outlined in Section 30-3-10.2.
- 2106 (b) There is a rebuttable presumption that joint legal custody, as defined in Section
2107 30-3-10.1, is in the best interest of the child, except in cases where there is:
- 2108 (i) domestic violence in the home or in the presence of the child;
- 2109 (ii) special physical or mental needs of a parent or child, making joint legal custody
2110 unreasonable;
- 2111 (iii) physical distance between the residences of the parents, making joint decision
2112 making impractical in certain circumstances; or
- 2113 (iv) any other factor the court considers relevant including those listed in this section
2114 and Section 30-3-10.2.
- 2115 (c) (i) The person who desires joint legal custody shall file a proposed parenting plan in
2116 accordance with Sections 30-3-10.8 and 30-3-10.9.
- 2117 (ii) A presumption for joint legal custody may be rebutted by a showing by a
2118 preponderance of the evidence that it is not in the best interest of the child.
- 2119 (d) A child may not be required by either party to testify unless the trier of fact
2120 determines that extenuating circumstances exist that would necessitate the testimony of the
2121 child be heard and there is no other reasonable method to present the child's testimony.
- 2122 (e) (i) The court may inquire of the child's and take into consideration [~~the~~] the child's
2123 desires regarding future custody or parent-time schedules, but the expressed desires are not
2124 controlling and the court may determine the [~~children's~~] child's custody or parent-time
2125 otherwise.
- 2126 (ii) The desires of a child 14 years of age or older shall be given added weight, but is
2127 not the single controlling factor.
- 2128 (f) (i) If an interview with a child is conducted by the court pursuant to Subsection
2129 (1)(e), the interview shall be conducted by the judge in camera.
- 2130 (ii) The prior consent of the parties may be obtained but is not necessary if the court
2131 finds that an interview with a child is the only method to ascertain the child's desires regarding
2132 custody.
- 2133 (2) In awarding custody, the court shall consider, among other factors the court finds
2134 relevant, which parent is most likely to act in the best interests of the child, including allowing
2135 the child frequent and continuing contact with the noncustodial parent as the court finds

2136 appropriate.

2137 (3) If the court finds that one parent does not desire custody of the child, the court shall
2138 take that evidence into consideration in determining whether to award custody to the other
2139 parent.

2140 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a
2141 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
2142 whether a substantial change has occurred for the purpose of modifying an award of custody.

2143 (b) The court may not consider the disability of a parent as a factor in awarding custody
2144 or modifying an award of custody based on a determination of a substantial change in
2145 circumstances, unless the court makes specific findings that:

2146 (i) the disability significantly or substantially inhibits the parent's ability to provide for
2147 the physical and emotional needs of the child at issue; and

2148 (ii) the parent with a disability lacks sufficient human, monetary, or other resources
2149 available to supplement the parent's ability to provide for the physical and emotional needs of
2150 the child at issue.

2151 (c) Nothing in this section may be construed to apply to adoption proceedings under
2152 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

2153 (5) This section establishes neither a preference nor a presumption for or against joint
2154 physical custody or sole physical custody, but allows the court and the family the widest
2155 discretion to choose a parenting plan that is in the best interest of the child.

2156 (6) When an issue before the court involves custodial responsibility in the event of a
2157 deployment of one or both parents who are servicemembers, and the servicemember has not yet
2158 been notified of deployment, the court shall resolve the issue based on the standards in Sections
2159 78B-20-306 through 78B-20-309.

2160 (7) In considering the past conduct and demonstrated moral standards of each party
2161 under Subsection (1)(a)(i) or any other factor a court finds relevant, the court may not
2162 discriminate against a parent because of or otherwise consider the parent's:

2163 (a) lawful possession or use of cannabis in a medicinal dosage form, a cannabis
2164 product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26,
2165 Chapter 61a, Utah Medical Cannabis Act, except as it relates to that parent's ability to care for a
2166 child; or

2167 (b) status as a:

2168 (i) cannabis production establishment agent, as that term is defined in Section
2169 4-41a-102;

2170 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

2171 (iii) state central fill agent, as that term is defined in Section 26-61a-102; or

2172 (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah
2173 Medical Cannabis Act.

2174 Section 35. Section 31A-22-618 is amended to read:

2175 **31A-22-618. Nondiscrimination among health care professionals.**

2176 (1) Except as provided under Section 31A-45-303 and Subsection (2), and except as to
2177 insurers licensed under Chapter 8, Health Maintenance Organizations and Limited Health
2178 Plans, no insurer may unfairly discriminate against any licensed class of health care providers
2179 by structuring contract exclusions which exclude payment of benefits for the treatment of any
2180 illness, injury, or condition by any licensed class of health care providers when the treatment is
2181 within the scope of the licensee's practice and the illness, injury, or condition falls within the
2182 coverage of the contract. Upon the written request of an insured alleging an insurer has
2183 violated this section, the commissioner shall hold a hearing to determine if the violation exists.
2184 The commissioner may consolidate two or more related alleged violations into a single hearing.

2185 (2) Coverage for licensed providers for behavioral analysis may be limited by [a] an
2186 insurer in accordance with Section 58-61-714. Nothing in this section prohibits an insurer
2187 from electing to provide coverage for other licensed professionals whose scope of practice
2188 includes behavior analysis.

2189 Section 36. Section 34A-2-407 is amended to read:

2190 **34A-2-407. Reporting of industrial injuries -- Regulation of health care**
2191 **providers.**

2192 (1) As used in this section, "physician" is as defined in Section 34A-2-111.

2193 (2) (a) An employee sustaining an injury arising out of and in the course of
2194 employment shall provide notification to the employee's employer promptly of the injury.

2195 (b) If the employee is unable to provide the notification required by Subsection (2)(a),
2196 the following may provide notification of the injury to the employee's employer:

2197 (i) the employee's next of kin; or

- 2198 (ii) the employee's attorney.
- 2199 (c) An employee claiming benefits under this chapter or Chapter 3, Utah Occupational
- 2200 Disease Act, shall comply with rules adopted by the commission regarding disclosure of
- 2201 medical records of the employee medically relevant to the industrial accident or occupational
- 2202 disease claim.
- 2203 (3) (a) An employee is barred for any claim of benefits arising from an injury if the
- 2204 employee fails to notify within the time period described in Subsection (3)(b):
- 2205 (i) the employee's employer in accordance with Subsection (2); or
- 2206 (ii) the division.
- 2207 (b) The notice required by Subsection (3)(a) shall be made within:
- 2208 (i) 180 days of the day on which the injury occurs; or
- 2209 (ii) in the case of an occupational hearing loss, the time period specified in Section
- 2210 [34A-2-506](#).
- 2211 (4) The following constitute notification of injury required by Subsection (2):
- 2212 (a) an employer's report filed with:
- 2213 (i) the division; or
- 2214 (ii) the employer's workers' compensation insurance carrier;
- 2215 (b) a physician's injury report filed with:
- 2216 (i) the division;
- 2217 (ii) the employer; or
- 2218 (iii) the employer's workers' compensation insurance carrier;
- 2219 (c) a workers' compensation insurance carrier's report filed with the division; or
- 2220 (d) the payment of any medical or disability benefits by:
- 2221 (i) the employer; or
- 2222 (ii) the employer's workers' compensation insurance carrier.
- 2223 (5) (a) An employer and the employer's workers' compensation insurance carrier, if
- 2224 any, shall file a report in accordance with the rules made under Subsection (5)(b) of a:
- 2225 (i) work-related fatality; or
- 2226 (ii) work-related injury resulting in:
- 2227 (A) medical treatment;
- 2228 (B) loss of consciousness;

- 2229 (C) loss of work;
- 2230 (D) restriction of work; or
- 2231 (E) transfer to another job.
- 2232 (b) An employer or the employer's workers' compensation insurance carrier, if any,
- 2233 shall file a report required by Subsection (5)(a), and any subsequent reports of a previously
- 2234 reported injury as may be required by the commission, within the time limits and in the manner
- 2235 established by rule by the commission made after consultation with the workers' compensation
- 2236 advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative
- 2237 Rulemaking Act. A rule made under this Subsection (5)(b) shall:
- 2238 (i) be reasonable; and
- 2239 (ii) take into consideration the practicality and cost of complying with the rule.
- 2240 (c) A report is not required to be filed under this Subsection (5) for a minor injury, such
- 2241 as a cut or scratch that requires first aid treatment only, unless:
- 2242 (i) a treating physician files a report with the division in accordance with Subsection
- 2243 (9); or
- 2244 (ii) a treating physician is required to file a report with the division in accordance with
- 2245 Subsection (9).
- 2246 (6) An employer and its workers' compensation insurance carrier, if any, required to
- 2247 file a report under Subsection (5) shall provide the employee with:
- 2248 (a) a copy of the report submitted to the division; and
- 2249 (b) a statement, as prepared by the division, of the employee's rights and
- 2250 responsibilities related to the industrial injury.
- 2251 (7) An employer shall maintain a record in a manner prescribed by the commission by
- 2252 rule of all:
- 2253 (a) work-related fatalities; or
- 2254 (b) work-related injuries resulting in:
- 2255 (i) medical treatment;
- 2256 (ii) loss of consciousness;
- 2257 (iii) loss of work;
- 2258 (iv) restriction of work; or
- 2259 (v) transfer to another job.

2260 (8) (a) Except as provided in Subsection (8)(b), an employer or a workers'
2261 compensation insurance carrier who refuses or neglects to make a report, maintain a record, or
2262 file a report as required by this section is subject to a civil assessment:

2263 (i) imposed by the division, subject to the requirements of Title 63G, Chapter 4,
2264 Administrative Procedures Act; and

2265 (ii) that may not exceed \$500.

2266 (b) An employer or workers' compensation insurance carrier is not subject to the civil
2267 assessment under this Subsection (8) if:

2268 (i) the employer or workers' compensation insurance carrier submits a report later than
2269 required by this section; and

2270 (ii) the division finds that the employer or workers' compensation insurance carrier has
2271 shown good cause for submitting a report later than required by this section.

2272 (c) (i) A civil assessment collected under this Subsection (8) shall be deposited into the
2273 Uninsured Employers' Fund created in Section 34A-2-704 to be used for a purpose specified in
2274 Section 34A-2-704.

2275 (ii) The administrator of the Uninsured Employers' Fund shall collect money required
2276 to be deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance
2277 with Section 34A-2-704.

2278 (9) (a) A physician attending an injured employee shall comply with rules established
2279 by the commission regarding:

2280 (i) fees for physician's services;

2281 (ii) disclosure of medical records of the employee medically relevant to the employee's
2282 industrial accident or occupational disease claim;

2283 (iii) reports to the division regarding:

2284 (A) the condition and treatment of an injured employee; or

2285 (B) any other matter concerning industrial cases that the physician is treating; and

2286 (iv) rules made under Section 34A-2-407.5.

2287 (b) A physician who is associated with, employed by, or bills through a hospital is
2288 subject to Subsection (9)(a).

2289 (c) A hospital providing services for an injured employee is not subject to the
2290 requirements of Subsection (9)(a) except for rules made by the commission that are described

2291 in Subsection (9)(a)(ii) or (iii) or Section [34A-2-407.5](#).

2292 (d) The commission's schedule of fees may reasonably differentiate remuneration to be
2293 paid to providers of health services based on:

2294 (i) the severity of the employee's condition;

2295 (ii) the nature of the treatment necessary; and

2296 (iii) the facilities or equipment specially required to deliver that treatment.

2297 (e) This Subsection (9) does not prohibit a contract with a provider of health services
2298 relating to the pricing of goods and services.

2299 (10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:

2300 (a) the division;

2301 (b) the employee; and

2302 (c) (i) the employer; or

2303 (ii) the employer's workers' compensation insurance carrier.

2304 (11) (a) As used in this Subsection (11):

2305 (i) "Balance billing" means charging a person, on whose behalf a workers'

2306 compensation insurance carrier or self-insured employer is obligated to pay medical benefits

2307 under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between

2308 what the workers' compensation insurance carrier or self-insured employer reimburses the

2309 hospital for covered medical services and what the hospital charges for those covered medical

2310 services.

2311 (ii) "Covered medical services" means medical services provided by a hospital that are

2312 covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah

2313 Occupational Disease Act.

2314 (iii) "Health benefit plan" means the same as that term is defined in Section

2315 [31A-22-619.6](#).

2316 (iv) "Self-insured employer" means the same as that term is defined in Section

2317 [34A-2-201.5](#).

2318 (b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or

2319 self-insured employer may contract, either in writing or by mutual oral agreement, with a

2320 hospital to establish reimbursement rates.

2321 (c) Subject to Subsection (11)(d), for the time period beginning on May 8, 2018, and

2322 ending on July 1, 2021, a workers' compensation insurance carrier or self-insured employer that
2323 is reimbursing a hospital for covered medical services shall reimburse the hospital:

2324 (i) in accordance with a contract described in Subsection (11)(b); or

2325 (ii) (A) if the hospital is located in a county of the first, second, or third class, as
2326 classified in Section 17-50-501, at 75% of the billed hospital fees for the covered medical
2327 services; or

2328 (B) if the hospital is located in a county of the fourth, fifth, or sixth class, as classified
2329 in Section 17-50-501, at 85% of the billed hospital fees for the covered medical services.

2330 (d) A hospital may not engage in balance billing.

2331 (e) Covered services paid under a health benefit plan are subject to coordination of
2332 benefits in accordance with [Sections] Section 31A-22-619.6 [and 34A-2-213].

2333 (12) (a) Subject to appellate review under Section 34A-1-303, the commission has
2334 exclusive jurisdiction to hear and determine:

2335 (i) whether goods provided to or services rendered to an employee are compensable
2336 pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:

2337 (A) medical, nurse, or hospital services;

2338 (B) medicines; and

2339 (C) artificial means, appliances, or prosthesis;

2340 (ii) except for amounts charged or paid under Subsection (11), the reasonableness of
2341 the amounts charged or paid for a good or service described in Subsection (12)(a)(i); and

2342 (iii) collection issues related to a good or service described in Subsection (12)(a)(i).

2343 (b) Except as provided in Subsection (12)(a), Subsection 34A-2-211(6), or Section
2344 34A-2-212, a person may not maintain a cause of action in any forum within this state other
2345 than the commission for collection or payment for goods or services described in Subsection
2346 (12)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

2347 Section 37. Section 34A-2-704 is amended to read:

2348 **34A-2-704. Uninsured Employers' Fund.**

2349 (1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers'
2350 Fund has the purpose of assisting in the payment of workers' compensation benefits to a person
2351 entitled to the benefits, if:

2352 (i) that person's employer:

2353 (A) is individually, jointly, or severally liable to pay the benefits; and
2354 (B) (I) becomes or is insolvent;
2355 (II) appoints or has appointed a receiver; or
2356 (III) otherwise does not have sufficient funds, insurance, sureties, or other security to
2357 cover workers' compensation liabilities; and
2358 (ii) the employment relationship between that person and the person's employer is
2359 localized within the state as provided in Subsection (20).
2360 (b) The Uninsured Employers' Fund succeeds to money previously held in the Default
2361 Indemnity Fund.
2362 (c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for
2363 the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational
2364 Disease Act, with the exception of a penalty on those obligations.
2365 (2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured
2366 Employers' Fund in accordance with this chapter[;] and Subsection 59-9-101(2)[, ~~and~~
2367 ~~Subsection 34A-2-213(3)~~].
2368 (b) The commissioner shall appoint an administrator of the Uninsured Employers'
2369 Fund.
2370 (c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.
2371 (ii) The administrator shall make provisions for and direct distribution from the
2372 Uninsured Employers' Fund.
2373 (3) Reasonable costs of administering the Uninsured Employers' Fund or other fees
2374 required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured
2375 Employers' Fund.
2376 (4) The state treasurer shall:
2377 (a) receive workers' compensation premium assessments from the State Tax
2378 Commission; and
2379 (b) invest the Uninsured Employers' Fund to ensure maximum investment return for
2380 both long and short term investments in accordance with Section 34A-2-706.
2381 (5) (a) The administrator may employ, retain, or appoint counsel to represent the
2382 Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of
2383 the Uninsured Employers' Fund.

2384 (b) If requested by the commission, the following shall aid in the representation of the
2385 Uninsured Employers' Fund:
2386 (i) the attorney general; or
2387 (ii) the city attorney, or county attorney of the locality in which:
2388 (A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah
2389 Occupational Disease Act, is pending;
2390 (B) the employee resides; or
2391 (C) an employer:
2392 (I) resides; or
2393 (II) is doing business.
2394 (c) (i) Notwithstanding Title 63A, Chapter 3, Part 5, Office of State Debt Collection,
2395 the administrator shall provide for the collection of money required to be deposited in the
2396 Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational Disease Act.
2397 (ii) To comply with Subsection (5)(c)(i), the administrator may:
2398 (A) take appropriate action, including docketing an award in a manner consistent with
2399 Section [34A-2-212](#); and
2400 (B) employ counsel and other personnel necessary to collect the money described in
2401 Subsection (5)(c)(i).
2402 (6) To the extent of the compensation and other benefits paid or payable to or on behalf
2403 of an employee or the employee's dependents from the Uninsured Employers' Fund, the
2404 Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the
2405 employee or the employee's dependents against the employer failing to make the compensation
2406 payments.
2407 (7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a
2408 condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the
2409 Uninsured Employers' Fund.
2410 (b) A court with jurisdiction shall grant a payment made under this section a priority
2411 equal to that to which the claimant would have been entitled in the absence of this section
2412 against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).
2413 (c) The expenses of the Uninsured Employers' Fund in handling a claim shall be
2414 accorded the same priority as the liquidator's expenses.

2415 (8) (a) The administrator shall periodically file the information described in Subsection
2416 (8)(b) with the receiver, trustee, or liquidator of:

2417 (i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

2418 (ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a
2419 condition listed in Subsection (1)(a)(i)(B); or

2420 (iii) an insolvent insurance carrier.

2421 (b) The information required to be filed under Subsection (8)(a) is:

2422 (i) a statement of the covered claims paid by the Uninsured Employers' Fund; and

2423 (ii) an estimate of anticipated claims against the Uninsured Employers' Fund.

2424 (c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers'
2425 Fund for claims against the assets of the employer that meets a condition listed in Subsection
2426 (1)(a)(i)(B).

2427 (9) When an injury or death for which compensation is payable from the Uninsured
2428 Employers' Fund has been caused by the wrongful act or neglect of another person not in the
2429 same employment, the Uninsured Employers' Fund has the same rights as allowed under
2430 Section 34A-2-106.

2431 (10) The Uninsured Employers' Fund, subject to approval of the administrator, shall
2432 discharge its obligations by:

2433 (a) adjusting its own claims; or

2434 (b) contracting with an adjusting company, risk management company, insurance
2435 company, or other company that has expertise and capabilities in adjusting and paying workers'
2436 compensation claims.

2437 (11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an
2438 administrative law judge, upon rendering a decision with respect to a claim for workers'
2439 compensation benefits in which an employer that meets a condition listed in Subsection
2440 (1)(a)(i)(B) is duly joined as a party, shall:

2441 (i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to
2442 reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured
2443 employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

2444 (ii) impose a penalty against the employer that meets a condition listed in Subsection
2445 (1)(a)(i)(B):

2446 (A) of 15% of the value of the total award in connection with the claim; and
2447 (B) that shall be deposited into the Uninsured Employers' Fund.
2448 (b) An award under this Subsection (11) shall be collected by the administrator in
2449 accordance with Subsection (5)(c).
2450 (12) The state, the commission, and the state treasurer, with respect to payment of
2451 compensation benefits, expenses, fees, or disbursement properly chargeable against the
2452 Uninsured Employers' Fund:
2453 (a) are liable only to the assets in the Uninsured Employers' Fund; and
2454 (b) are not otherwise in any way liable for the making of a payment.
2455 (13) The commission may make reasonable rules for the processing and payment of a
2456 claim for compensation from the Uninsured Employers' Fund.
2457 (14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits
2458 under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers'
2459 Fund may assess all other self-insured employers amounts necessary to pay:
2460 (A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed
2461 in Subsection (1)(a)(i)(B) occurring;
2462 (B) the expenses of handling covered a claim subsequent to a condition listed in
2463 Subsection (1)(a)(i)(B) occurring;
2464 (C) the cost of an examination under Subsection (15); and
2465 (D) other expenses authorized by this section.
2466 (ii) This Subsection (14) applies to benefits paid to an employee of:
2467 (A) a self-insured employer, as defined in Section [34A-2-201.5](#), that meets a condition
2468 listed in Subsection (1)(a)(i)(B); or
2469 (B) if the self-insured employer that meets a condition described in Subsection
2470 (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance
2471 mutual.
2472 (b) The assessments of a self-insured employer shall be in the proportion that the
2473 manual premium of the self-insured employer for the preceding calendar year bears to the
2474 manual premium of all self-insured employers for the preceding calendar year.
2475 (c) A self-insured employer shall be notified of the self-insured employer's assessment
2476 not later than 30 days before the day on which the assessment is due.

2477 (d) (i) A self-insured employer may not be assessed in any year an amount greater than
2478 2% of that self-insured employer's manual premium for the preceding calendar year.

2479 (ii) If the maximum assessment does not provide in a year an amount sufficient to
2480 make all necessary payments from the Uninsured Employers' Fund for one or more self-insured
2481 employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be
2482 paid as soon as money becomes available.

2483 (e) A self-insured employer is liable under this section for a period not to exceed three
2484 years after the day on which the Uninsured Employers' Fund first pays benefits to an employee
2485 described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in
2486 Subsection (1)(a)(i)(B).

2487 (f) This Subsection (14) does not apply to a claim made against a self-insured employer
2488 that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection
2489 (1)(a)(i)(B) occurred before July 1, 1986.

2490 (15) (a) The following shall notify the division of any information indicating that any
2491 of the following may be insolvent or in a financial condition hazardous to its employees or the
2492 public:

2493 (i) a self-insured employer; or

2494 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
2495 public agency insurance mutual.

2496 (b) Upon receipt of the notification described in Subsection (15)(a) and with good
2497 cause appearing, the division may order an examination of:

2498 (i) that self-insured employer; or

2499 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
2500 public agency mutual.

2501 (c) The cost of the examination ordered under Subsection (15)(b) shall be assessed
2502 against all self-insured employers as provided in Subsection (14).

2503 (d) The results of the examination ordered under Subsection (15)(b) shall be kept
2504 confidential.

2505 (16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on
2506 behalf of the employee to whom or to whose dependents compensation and other benefits are
2507 paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or

2508 other party in interest objecting to the claim.

2509 (b) A claim described in Subsection (16)(a) is presumed to be valid up to the full
2510 amount of workers' compensation benefits claimed by the employee or the employee's
2511 dependents.

2512 (c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative
2513 proceeding under the authority of the commission.

2514 (17) A partner in a partnership or an owner of a sole proprietorship may not recover
2515 compensation or other benefits from the Uninsured Employers' Fund if:

2516 (a) the person is not included as an employee under Subsection 34A-2-104(3); or

2517 (b) the person is included as an employee under Subsection 34A-2-104(3), but:

2518 (i) the person's employer fails to insure or otherwise provide adequate payment of
2519 direct compensation; and

2520 (ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission
2521 over which the person had or shared control or responsibility.

2522 (18) A director or officer of a corporation may not recover compensation or other
2523 benefits from the Uninsured Employers' Fund if the director or officer is excluded from
2524 coverage under Subsection 34A-2-104(4).

2525 (19) The Uninsured Employers' Fund:

2526 (a) shall be:

2527 (i) used in accordance with this section only for:

2528 (A) the purpose of assisting in the payment of workers' compensation benefits in
2529 accordance with Subsection (1); and

2530 (B) in accordance with Subsection (3), payment of:

2531 (I) reasonable costs of administering the Uninsured Employers' Fund; or

2532 (II) fees required to be paid by the Uninsured Employers' Fund; and

2533 (ii) expended according to processes that can be verified by audit; and

2534 (b) may not be used for:

2535 (i) administrative costs unrelated to the Uninsured Employers' Fund; or

2536 (ii) an activity of the commission other than an activity described in Subsection (19)(a).

2537 (20) (a) For purposes of Subsection (1), an employment relationship is localized in the
2538 state if:

2539 (i) (A) the employer who is liable for the benefits has a business premise in the state;
2540 and

2541 (B) (I) the contract for hire is entered into in the state; or

2542 (II) the employee regularly performs work duties in the state for the employer who is
2543 liable for the benefits; or

2544 (ii) the employee is:

2545 (A) a resident of the state; and

2546 (B) regularly performs work duties in the state for the employer who is liable for the
2547 benefits.

2548 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2549 commission shall by rule define what constitutes regularly performing work duties in the state.

2550 Section 38. Section **34A-3-108** is amended to read:

2551 **34A-3-108. Reporting of occupational diseases -- Regulation of health care**
2552 **providers.**

2553 (1) An employee sustaining an occupational disease, as defined in this chapter, arising
2554 out of and in the course of employment shall provide notification to the employee's employer
2555 promptly of the occupational disease. If the employee is unable to provide notification, the
2556 employee's next of kin or attorney may provide notification of the occupational disease to the
2557 employee's employer.

2558 (2) (a) An employee who fails to notify the employee's employer or the division within
2559 180 days after the cause of action arises is barred from a claim of benefits arising from the
2560 occupational disease.

2561 (b) The cause of action is considered to arise on the date the employee first:

2562 (i) suffers disability from the occupational disease; and

2563 (ii) knows, or in the exercise of reasonable diligence should have known, that the
2564 occupational disease is caused by employment.

2565 (3) The following constitute notification of an occupational disease:

2566 (a) an employer's report filed with the:

2567 (i) division; or

2568 (ii) workers' compensation insurance carrier;

2569 (b) a physician's injury report filed with the:

- 2570 (i) division;
- 2571 (ii) employer; or
- 2572 (iii) workers' compensation insurance carrier;
- 2573 (c) a workers' compensation insurance carrier's report to the division; or
- 2574 (d) the payment of any medical or disability benefit by the employer or the employer's
- 2575 workers' compensation insurance carrier.

2576 (4) (a) An employer and the employer's workers' compensation insurance carrier, if

2577 any, shall file a report in accordance with the rules described in Subsection (4)(b) of any

2578 occupational disease resulting in:

- 2579 (i) medical treatment;
- 2580 (ii) loss of consciousness;
- 2581 (iii) loss of work;
- 2582 (iv) restriction of work; or
- 2583 (v) transfer to another job.

2584 (b) An employer or the employer's workers' compensation insurance carrier, if any,

2585 shall file a report required under Subsection (4)(a) and any subsequent reports of a previously

2586 reported occupational disease as may be required by the commission within the time limits and

2587 in the manner established by rule by the commission made in accordance with Title 63G,

2588 Chapter 3, Utah Administrative Rulemaking Act, under Subsection [34A-2-407\(5\)](#).

2589 (c) A report is not required:

- 2590 (i) for a minor injury that requires first aid treatment only, unless a treating physician
- 2591 files, or is required to file, the Physician's Initial Report of Work Injury or Occupational
- 2592 Disease with the division;
- 2593 (ii) for occupational diseases that manifest after the employee is no longer employed by
- 2594 the employer with which the exposure occurred; or
- 2595 (iii) when the employer is not aware of an exposure occasioned by the employment that
- 2596 results in an occupational disease as defined by Section [34A-3-103](#).

2597 (5) An employer or its workers' compensation insurance carrier, if any, shall provide

2598 the employee with:

- 2599 (a) a copy of the report submitted to the division; and
- 2600 (b) a statement, as prepared by the division, of the employee's rights and

2601 responsibilities related to the occupational disease.

2602 (6) An employer shall maintain a record in a manner prescribed by the division of
2603 occupational diseases resulting in:

2604 (a) medical treatment;

2605 (b) loss of consciousness;

2606 (c) loss of work;

2607 (d) restriction of work; or

2608 (e) transfer to another job.

2609 (7) An employer or a workers' compensation insurance carrier who refuses or neglects
2610 to make a report, maintain a record, or file a report with the division as required by this section
2611 is subject to citation and civil assessment in accordance with Subsection 34A-2-407(8).

2612 (8) (a) Except as provided in Subsection (8)(c), a physician, surgeon, or other health
2613 care provider attending an occupationally diseased employee shall:

2614 (i) comply with the rules, including the schedule of fees, for services as adopted by the
2615 commission;

2616 (ii) make reports to the division at any and all times as required as to the condition and
2617 treatment of an occupationally diseased employee or as to any other matter concerning
2618 industrial cases being treated; and

2619 (iii) comply with rules made under Section 34A-2-407.5.

2620 (b) A physician, as defined in Section 34A-2-111, who is associated with, employed
2621 by, or bills through a hospital is subject to Subsection (8)(a).

2622 (c) A hospital is not subject to the requirements of Subsection (8)(a) except a hospital
2623 is subject to rules made by the commission under Subsections 34A-2-407(9)(a)(ii) and (iii) and
2624 Section 34A-2-407.5.

2625 (d) The commission's schedule of fees may reasonably differentiate remuneration to be
2626 paid to providers of health services based on:

2627 (i) the severity of the employee's condition;

2628 (ii) the nature of the treatment necessary; and

2629 (iii) the facilities or equipment specially required to deliver that treatment.

2630 (e) This Subsection (8) does not prohibit a contract with a provider of health services
2631 relating to the pricing of goods and services.

2632 (9) A copy of the physician's initial report shall be furnished to the:

2633 (a) division;

2634 (b) employee; and

2635 (c) employer or its workers' compensation insurance carrier.

2636 (10) A person subject to reporting under Subsection (8)(a)(ii) or Subsection

2637 34A-2-407(9)(a)(iii) who refuses or neglects to make a report or comply with this section is

2638 subject to a civil assessment in accordance with Subsection 34A-2-407(8).

2639 (11) (a) As used in this Subsection (11):

2640 (i) "Balance billing" means charging a person, on whose behalf a workers'

2641 compensation insurance carrier or self-insured employer is obligated to pay medical benefits

2642 under this chapter or Chapter 2, Workers' Compensation Act, for the difference between what

2643 the workers' compensation insurance carrier or self-insured employer reimburses the hospital

2644 for covered medical services and what the hospital charges for those covered medical services.

2645 (ii) "Covered medical services" means medical services provided by a hospital that are

2646 covered by workers' compensation medical benefits under this chapter or Chapter 2, Workers'

2647 Compensation Act.

2648 (iii) "Health benefit plan" means the same as that term is defined in Section

2649 31A-22-619.6.

2650 (iv) "Self-insured employer" means the same as that term is defined in Section

2651 34A-2-201.5.

2652 (b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or

2653 self-insured employer may contract, either in writing or by mutual oral agreement, with a

2654 hospital to establish reimbursement rates.

2655 (c) Subject to Subsection (11)(d), for the time period beginning on May 10, 2016, and

2656 ending on July 1, 2018, a workers' compensation insurance carrier or self-insured employer that

2657 is reimbursing a hospital that has not entered into a contract described in Subsection (11)(b),

2658 shall reimburse the hospital for covered medical services at 85% of the billed hospital fees for

2659 the covered medical services.

2660 (d) A hospital may not engage in balance billing.

2661 (e) Covered services paid under a health benefit plan are subject to coordination of

2662 benefits in accordance with [Sections] Section 31A-22-619.6 [~~and 34A-2-213~~].

2663 (12) (a) An application for a hearing to resolve a dispute regarding an occupational
2664 disease claim shall be filed with the Division of Adjudication.

2665 (b) After the filing, a copy shall be forwarded by mail to:

2666 (i) (A) the employer; or

2667 (B) the employer's workers' compensation insurance carrier;

2668 (ii) the applicant; and

2669 (iii) the attorneys for the parties.

2670 (13) (a) Subject to appellate review under Section 34A-1-303, the commission has
2671 exclusive jurisdiction to hear and determine:

2672 (i) whether goods provided to or services rendered to an employee is compensable
2673 pursuant to this chapter and Chapter 2, Workers' Compensation Act, including the following:

2674 (A) medical, nurse, or hospital services;

2675 (B) medicines; and

2676 (C) artificial means, appliances, or prosthesis;

2677 (ii) except for amounts charged or paid under Subsection (11), the reasonableness of
2678 the amounts charged or paid for a good or service described in Subsection (13)(a)(i); and

2679 (iii) collection issues related to a good or service described in Subsection (13)(a)(i).

2680 (b) Except as provided in Subsection (13)(a), Subsection 34A-2-211(6), or Section
2681 34A-2-212, a person may not maintain a cause of action in any forum within this state other
2682 than the commission for collection or payment of goods or services described in Subsection
2683 (13)(a) that are compensable under this chapter or Chapter 2, Workers' Compensation Act.

2684 Section 39. Section 35A-8-608 is amended to read:

2685 **35A-8-608. Grant eligible entity application process for Homeless Shelter Cities**
2686 **Mitigation Restricted Account funds.**

2687 (1) As used in this section:

2688 (a) "Account" means the restricted account created in Section 35A-8-606.

2689 (b) "Committee" means the Homeless Coordinating Committee created in this part.

2690 (c) "Grant" means an award of funds from the account.

2691 (d) "Grant eligible entity" means:

2692 (i) the Department of Public Safety; or

2693 (ii) a city, town, or metro township that:

2694 (A) has a homeless shelter within the city's, town's, or metro township's geographic
2695 boundaries;

2696 (B) has increased community, social service, [~~and~~] or public safety service needs due to
2697 the location of a homeless shelter within the city's, town's, or metro township's geographic
2698 boundaries; and

2699 (C) is certified as a grant eligible entity in accordance with Section [35A-8-609](#).

2700 (e) "Homeless shelter" means a facility that:

2701 (i) provides temporary shelter to homeless individuals;

2702 (ii) has the capacity to provide temporary shelter to at least 60 individuals per night;

2703 and

2704 (iii) operates year-round and is not subject to restrictions that limit the hours, days,
2705 weeks, or months of operation.

2706 (f) "Public safety services" means law enforcement, emergency medical services, and
2707 fire protection.

2708 (2) Subject to the availability of funds, a grant eligible entity may request a grant to
2709 mitigate the impacts of the location of a homeless shelter:

2710 (a) through employment of additional personnel to provide public safety services in
2711 and around a homeless shelter; or

2712 (b) for a grant eligible entity that is a city, town, or metro township, through:

2713 (i) development of a community and neighborhood program within the city's, town's, or
2714 metro township's boundaries; or

2715 (ii) provision of social services within the city's, town's, or metro township's
2716 boundaries.

2717 (3) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the
2718 department shall make rules governing:

2719 (i) the process for determining whether there is sufficient revenue to the account to
2720 offer a grant program for the next fiscal year; and

2721 (ii) the process for notifying grant eligible entities about the availability of grants for
2722 the next fiscal year.

2723 (b) (i) If the committee offers a grant program for the next fiscal year, the committee
2724 shall set aside time on the agenda of a committee meeting that occurs on or after July 1 and on

2725 or before November 30 to allow a grant eligible entity to present a request for account funds for
2726 the next fiscal year.

2727 (ii) A grant eligible entity may present a request for account funds by:

2728 (A) sending an electronic copy of the request to the committee before the meeting; and

2729 (B) appearing at the meeting to present the request.

2730 (c) The request described in Subsection (3)(b) shall contain:

2731 (i) for a grant request to develop a community and neighborhood program:

2732 (A) a proposal outlining the components of a community and neighborhood program;

2733 (B) a summary of the grant eligible entity's proposed use of any grant awarded; and

2734 (C) the amount requested;

2735 (ii) for a grant request to provide social services:

2736 (A) a proposal outlining the need for additional social services;

2737 (B) a summary of the grant eligible entity's proposed use of any grant awarded; and

2738 (C) the amount requested;

2739 (iii) for a grant request to employ additional personnel to provide public safety

2740 services:

2741 (A) data relating to the grant eligible entity's public safety services for the current fiscal
2742 year, including crime statistics and calls for public safety services;

2743 (B) data showing an increase in the grant eligible entity's need for public safety
2744 services in the next fiscal year;

2745 (C) a summary of the grant eligible entity's proposed use of any grant awarded; and

2746 (D) the amount requested; ~~and~~ or

2747 (iv) for a grant request to provide some combination of the activities described in

2748 Subsections (3)(c)(i) through (iii), the information required by this Subsection (3) for each

2749 activity for which the grant eligible entity requests a grant.

2750 (d) (i) On or before November 30, a grant eligible entity that received a grant during
2751 the previous fiscal year shall file electronically with the committee a report that includes:

2752 (A) a summary of the amount of the grant that the grant eligible entity received and the
2753 grant eligible entity's specific use of those funds;

2754 (B) an evaluation of the grant eligible entity's effectiveness in using the grant to

2755 address the grant eligible entity's increased needs due to the location of a homeless shelter; and

2756 (C) any proposals for improving the grant eligible entity's effectiveness in using a grant
2757 that the grant eligible entity may receive in future fiscal years.

2758 (ii) The committee may request additional information as needed to make the
2759 evaluation described in Subsection (3)(e).

2760 (e) The committee shall evaluate a grant request made in accordance with this
2761 Subsection (3) using the following factors:

2762 (i) the strength of the proposal that the grant eligible entity provides to support the
2763 request;

2764 (ii) if the grant eligible entity received a grant during the previous fiscal year, the
2765 efficiency with which the grant eligible entity used the grant during the previous fiscal year;

2766 (iii) the availability of alternative funding for the grant eligible entity to address the
2767 grant eligible entity's needs due to the location of a homeless shelter; and

2768 (iv) any other considerations identified by the committee.

2769 (f) (i) After making the evaluation described in Subsection (3)(e) for each grant eligible
2770 entity that makes a grant request and subject to other provisions of this Subsection (3)(f), the
2771 committee shall vote to:

2772 (A) prioritize the grant requests; and

2773 (B) recommend a grant amount for each grant eligible entity.

2774 (ii) The committee shall support the prioritization and recommendation described in
2775 Subsection (3)(f)(i) with findings on each of the factors described in Subsection (3)(e).

2776 (g) The committee shall submit a list that prioritizes the grant requests and
2777 recommends a grant amount for each grant eligible entity that requested a grant to:

2778 (i) the governor for inclusion in the governor's budget to be submitted to the
2779 Legislature; and

2780 (ii) the Social Services Appropriations Subcommittee of the Legislature for approval in
2781 accordance with Section [63J-1-802](#).

2782 (4) (a) Subject to Subsection (4)(b), the department shall disburse the revenue in the
2783 account as a grant to a grant eligible entity:

2784 (i) after making the disbursements required by Section [35A-8-607](#); and

2785 (ii) subject to the availability of funds in the account:

2786 (A) in the order of priority that the Legislature gives to each eligible grant entity under

2787 Section 63J-1-802; and

2788 (B) in the amount that the Legislature approves to a grant eligible entity under Section
2789 63J-1-802.

2790 (b) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the
2791 department shall make rules governing the process for the department to determine the timeline
2792 within the fiscal year for funding the grants.

2793 (5) On or before October 1, the department, in cooperation with the committee, shall:

2794 (a) submit an annual written report electronically to the Social Services Appropriations
2795 Subcommittee of the Legislature that gives a complete accounting of the department's
2796 disbursement of the money from the account under this section for the previous fiscal year; and

2797 (b) include information regarding the disbursement of money from the account under
2798 this section in the annual report described in Section 35A-1-109.

2799 Section 40. Section 35A-8-609 is amended to read:

2800 **35A-8-609. Certification of eligible municipality or grant eligible entity.**

2801 (1) The department shall certify each year, on or after July 1 and before the first
2802 meeting of the [~~committee~~] Homeless Coordinating Committee after July 1, the cities or towns
2803 that meet the requirements of an eligible municipality or a grant eligible entity as of July 1.

2804 (2) On or before October 1, the department shall provide a list of the cities, [~~or~~] towns,
2805 or metro townships that the department has certified as meeting the requirements of an eligible
2806 municipality or a grant eligible entity for the year to the State Tax Commission.

2807 Section 41. Section 35A-8-1601 is amended to read:

2808 **35A-8-1601. Definitions.**

2809 As used in this [~~chapter~~] part:

2810 (1) "Board" means the Uintah Basin Revitalization Fund Board.

2811 (2) "Capital projects" means expenditures for land, improvements on the land, and
2812 equipment intended to have long-term beneficial use.

2813 (3) "County" means:

2814 (a) Duchesne County; or

2815 (b) Uintah County.

2816 (4) "Division" means the Housing and Community Development Division.

2817 (5) "Revitalization Fund" means the Uintah Basin Revitalization Fund.

2818 (6) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
2819 Section 42. Section **35A-8-1604** is amended to read:
2820 **35A-8-1604. Duties -- Loans -- Interest.**
2821 (1) The board shall:
2822 (a) subject to the other provisions of this [~~chapter~~] part and an agreement entered into
2823 under Title 11, Chapter 13, Interlocal Cooperation Act, among the state, the counties, and the
2824 Tribe, make recommendations to the division for grants and loans from the revitalization fund
2825 to county agencies and the Tribe that are or may be socially or economically impacted, directly
2826 or indirectly, by mineral resource development;
2827 (b) establish procedures for application for and award of grants and loans including:
2828 (i) eligibility criteria;
2829 (ii) subject to Subsection **35A-8-1606**(2)(b), a preference that capital projects,
2830 including subsidized and low-income housing, and other one-time need projects and programs
2831 have priority over other projects;
2832 (iii) a preference for projects and programs that are associated with the geographic area
2833 where the oil and gas were produced; and
2834 (iv) coordination of projects and programs with other projects and programs funded by
2835 federal, state, and local governmental entities;
2836 (c) determine the order in which projects will be funded;
2837 (d) allocate the amount to be distributed from the revitalization fund for grants or loans
2838 to each county and the Tribe during a fiscal year as follows:
2839 (i) up to and including the first \$3,000,000 that is approved for distribution by the
2840 board during a fiscal year, the board may allocate the amount in accordance with the interlocal
2841 agreement described by Subsection (1)(a), except that the board may not allocate less than 75%
2842 of the amount under the interlocal agreement to the Tribe unless the interlocal agreement is
2843 further modified by statute; and
2844 (ii) beginning with fiscal year 2007-08, any amount approved for distribution by the
2845 board during that fiscal year in excess of \$3,000,000 shall be allocated equally amongst each
2846 county and the Tribe so that each receives 1/3 of the amount approved for distribution by the
2847 board in excess of \$3,000,000;
2848 (e) qualify for, accept, and administer grants, gifts, loans, or other funds from the

2849 federal government and from other sources, public or private; and

2850 (f) perform other duties assigned to it under the interlocal agreement described in
2851 Subsection (1)(a) that are not prohibited by law or otherwise modified by this ~~chapter~~ part.

2852 (2) The board shall ensure that loan repayments and interest are deposited into the
2853 revitalization fund.

2854 (3) The interlocal agreement described in Subsection (1)(a) shall be consistent with the
2855 following statutes, including any subsequent amendments to those statutes:

2856 (a) this ~~chapter~~ part;

2857 (b) Title 11, Chapter 13, Interlocal Cooperation Act;

2858 (c) Section 59-5-116; and

2859 (d) any other applicable provision of this Utah Code.

2860 Section 43. Section **35A-8-1701** is amended to read:

2861 **35A-8-1701. Title.**

2862 This ~~chapter~~ part is known as the "Navajo Revitalization Fund Act."

2863 Section 44. Section **35A-8-1702** is amended to read:

2864 **35A-8-1702. Definitions.**

2865 As used in this ~~chapter~~ part:

2866 (1) "Board" means the Navajo Revitalization Fund Board.

2867 (2) "Capital project" means an expenditure for land, improvements on the land, or
2868 equipment intended to have long-term beneficial use.

2869 (3) "Division" means the Housing and Community Development Division.

2870 (4) "Eligible entity" means:

2871 (a) the Navajo Nation;

2872 (b) a department or division of the Navajo Nation;

2873 (c) a Utah Navajo Chapter;

2874 (d) the Navajo Utah Commission;

2875 (e) an agency of the state or a political subdivision of the state; or

2876 (f) a nonprofit corporation.

2877 (5) "Navajo Utah Commission" means the commission created by Resolution

2878 IGRJN-134-92 of the Intergovernmental Relations Committee of the Navajo Nation Council.

2879 (6) "Revitalization fund" means the Navajo Revitalization Fund.

- 2880 (7) "Utah Navajo Chapter" means any of the following chapters of the Navajo Nation:
2881 (a) Aneth Chapter;
2882 (b) Dennehotso Chapter;
2883 (c) Mexican Water Chapter;
2884 (d) Navajo Mountain Chapter;
2885 (e) Oljato Chapter;
2886 (f) Red Mesa Chapter; and
2887 (g) Teec Nos Pos Chapter.

2888 Section 45. Section **35A-8-1703** is amended to read:

2889 **35A-8-1703. Legislative intent.**

2890 (1) The purpose of this [chapter] part is to:

2891 (a) maximize the long-term benefit of state severance taxes derived from lands in Utah
2892 held in trust by the United States for the Navajo Nation and its members by fostering funding
2893 mechanisms that will, consistent with sound financial practices, result in the greatest use of
2894 financial resources for the greatest number of citizens of San Juan County; and

2895 (b) promote cooperation and coordination between the state, its political subdivisions,
2896 Indian tribes, and individuals, firms, and business organizations engaged in the development of
2897 oil and gas interests in Utah held in trust by the United States for the Navajo Nation and its
2898 members.

2899 (2) Notwithstanding Subsection (1), the fund:

- 2900 (a) consists of state severance tax money to be spent at the discretion of the state; and
2901 (b) does not constitute a trust fund.

2902 Section 46. Section **35A-8-1704** is amended to read:

2903 **35A-8-1704. Navajo Revitalization Fund.**

2904 (1) (a) There is created an expendable special revenue fund called the "Navajo
2905 Revitalization Fund."

2906 (b) The revitalization fund shall consist of:

- 2907 (i) money deposited to the revitalization fund under this [chapter] part;
2908 (ii) money deposited to the revitalization fund under Section **59-5-119**; and
2909 (iii) any loan repayment or interest on a loan issued under this [chapter] part.

2910 (2) (a) The revitalization fund shall earn interest.

2911 (b) The interest earned on revitalization fund money shall be deposited into the fund.
2912 (3) Beginning for fiscal year 2010-11, the division may use revitalization fund money
2913 for the administration of the revitalization fund, but this amount may not exceed 4% of the
2914 annual receipts to the revitalization fund.

2915 Section 47. Section **35A-8-1707** is amended to read:

2916 **35A-8-1707. Revitalization fund administered by board -- Eligibility for**
2917 **assistance -- Review by board -- Restrictions on loans and grants -- Division to distribute**
2918 **money.**

2919 (1) (a) If an eligible entity wishes to receive a loan or grant from the board, the eligible
2920 entity shall file an application with the board that contains the information required by the
2921 board.

2922 (b) The board shall review an application for a loan or grant filed under Subsection
2923 (1)(a) before approving the loan or grant.

2924 (c) The board may approve a loan or grant application subject to the applicant's
2925 compliance with the one or more conditions established by the board.

2926 (2) In determining whether an eligible entity may receive a loan or grant, the board
2927 shall give priority to:

2928 (a) a capital project or infrastructure, including:

2929 (i) electrical power;

2930 (ii) water; and

2931 (iii) a one time need project;

2932 (b) a housing project that consists of:

2933 (i) the purchase of new housing;

2934 (ii) the construction of new housing; or

2935 (iii) a significant remodeling of existing housing; or

2936 (c) a matching educational endowment that:

2937 (i) promotes economic development within the Utah portion of the Navajo
2938 Reservation;

2939 (ii) promotes the preservation of Navajo culture, history, and language; or

2940 (iii) supports a postsecondary educational opportunity for a Navajo student enrolled in
2941 a course or program taught within the Utah portion of the Navajo Reservation.

2942 (3) A loan or grant issued under this [~~chapter~~] part may not fund:
 2943 (a) a start-up or operational cost of a private business venture;
 2944 (b) a general operating budget of an eligible entity; or
 2945 (c) a project that will operate or be located outside of the Navajo Reservation in San
 2946 Juan County, Utah, except for an educational endowment approved by the board under
 2947 Subsection (2)(c).

2948 (4) (a) The board may not approve a loan unless the loan:
 2949 (i) specifies the terms for repayment; and
 2950 (ii) is secured by proceeds from a general obligation, special assessment, or revenue
 2951 bond, note, or other obligation.

2952 (b) The division shall deposit a loan repayment or interest on a loan issued under this
 2953 [~~chapter~~] part into the revitalization fund.

2954 (5) The board shall give a priority to a loan or grant if the loan or grant includes
 2955 matching money or in-kind services from:

- 2956 (a) the Navajo Nation;
- 2957 (b) San Juan County;
- 2958 (c) the state;
- 2959 (d) the federal government;
- 2960 (e) a Utah Navajo Chapter; or
- 2961 (f) other private or public organization.

2962 (6) The division shall distribute loan and grant money:
 2963 (a) if the loan or grant is approved by the board;
 2964 (b) in accordance with the instructions of the board, except that the board may not
 2965 instruct that money be distributed in a manner:

- 2966 (i) inconsistent with this [~~chapter~~] part; or
- 2967 (ii) in violation of a rule or procedure of the department; and
- 2968 (c) in the case of a loan, in accordance with Section [63A-3-205](#).

2969 Section 48. Section **41-3-110** is amended to read:

2970 **41-3-110. Motor Vehicle Enforcement Division Temporary Permit Restricted**
 2971 **Account.**

2972 (1) As used in this section, "account" means the Motor Vehicle Enforcement Division

2973 Temporary Permit Restricted Account created by this section.

2974 (2) There is created within the General Fund a restricted account known as the Motor
2975 Vehicle Enforcement Division Temporary Permit Restricted Account.

2976 (3) (a) The account shall be funded from the fees deposited into the account in
2977 accordance with Section [41-3-601](#).

2978 (b) The fees described in Subsection (3)(a) shall be paid to the division, which shall
2979 deposit them into the account.

2980 (4) The Legislature may appropriate the funds in the account to the commission to
2981 cover the costs of the division.

2982 (5) In accordance with Section [~~63J-1-602.2~~] [63J-1-602.1](#), appropriations made to the
2983 commission from the account are nonlapsing.

2984 Section 49. Section **41-6a-505** is amended to read:

2985 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
2986 **drugs, or a combination of both violations.**

2987 (1) As part of any sentence for a first conviction of Section [41-6a-502](#):

2988 (a) the court shall:

2989 (i) (A) impose a jail sentence of not less than 48 consecutive hours; or

2990 (B) require the individual to work in a compensatory-service work program for not less
2991 than 48 hours;

2992 (ii) order the individual to participate in a screening;

2993 (iii) order the individual to participate in an assessment, if it is found appropriate by a
2994 screening under Subsection (1)(a)(ii);

2995 (iv) order the individual to participate in an educational series if the court does not
2996 order substance abuse treatment as described under Subsection (1)(b);

2997 (v) impose a fine of not less than \$700;

2998 (vi) order probation for the individual in accordance with Section [41-6a-507](#), if there is
2999 admissible evidence that the individual had a blood alcohol level of .16 or higher;

3000 (vii) (A) order the individual to pay the administrative impound fee described in
3001 Section [41-6a-1406](#); or

3002 (B) if the administrative impound fee was paid by a party described in Subsection
3003 [41-6a-1406](#)(5)(a), other than the individual sentenced, order the individual sentenced to

3004 reimburse the party; or
3005 (viii) (A) order the individual to pay the towing and storage fees described in Section
3006 72-9-603; or
3007 (B) if the towing and storage fees were paid by a party described in Subsection
3008 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
3009 reimburse the party; and
3010 (b) the court may:
3011 (i) order the individual to obtain substance abuse treatment if the substance abuse
3012 treatment program determines that substance abuse treatment is appropriate;
3013 (ii) order probation for the individual in accordance with Section 41-6a-507;
3014 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section
3015 41-6a-515.5 if the individual is 21 years of age or older; or
3016 (iv) order a combination of Subsections (1)(b)(i) through (iii).
3017 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
3018 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
3019 offense upon which the current conviction is based:
3020 (a) the court shall:
3021 (i) (A) impose a jail sentence of not less than 240 hours; or
3022 (B) impose a jail sentence of not less than 120 hours in addition to home confinement
3023 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
3024 a substance abuse testing instrument in accordance with Section 41-6a-506;
3025 (ii) order the individual to participate in a screening;
3026 (iii) order the individual to participate in an assessment, if it is found appropriate by a
3027 screening under Subsection (2)(a)(ii);
3028 (iv) order the individual to participate in an educational series if the court does not
3029 order substance abuse treatment as described under Subsection (2)(b);
3030 (v) impose a fine of not less than \$800;
3031 (vi) order probation for the individual in accordance with Section 41-6a-507;
3032 (vii) (A) order the individual to pay the administrative impound fee described in
3033 Section 41-6a-1406; or
3034 (B) if the administrative impound fee was paid by a party described in Subsection

3035 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
3036 reimburse the party; or
3037 (viii) (A) order the individual to pay the towing and storage fees described in Section
3038 72-9-603; or
3039 (B) if the towing and storage fees were paid by a party described in Subsection
3040 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
3041 reimburse the party; and
3042 (b) the court may:
3043 (i) order the individual to obtain substance abuse treatment if the substance abuse
3044 treatment program determines that substance abuse treatment is appropriate;
3045 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section
3046 41-6a-515.5 if the individual is 21 years of age or older; or
3047 (iii) order a combination of Subsections (2)(b)(i) and (ii).
3048 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
3049 sentence and places the defendant on probation, the court shall impose:
3050 (a) a fine of not less than \$1,500;
3051 (b) a jail sentence of not less than 1,500 hours; and
3052 (c) supervised probation.
3053 (4) For Subsection (3)[(a)] or Subsection 41-6a-503(2)(b), the court:
3054 (a) shall impose an order requiring the individual to obtain a screening and assessment
3055 for alcohol and substance abuse, and treatment as appropriate; and
3056 (b) may impose an order requiring the individual to participate in a 24-7 sobriety
3057 program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.
3058 (5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.
3059 (6) If an individual is convicted of a violation of Section 41-6a-502 and there is
3060 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court
3061 shall order the following, or describe on record why the order or orders are not appropriate:
3062 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and
3063 (b) one or more of the following:
3064 (i) the installation of an ignition interlock system as a condition of probation for the
3065 individual in accordance with Section 41-6a-518;

3066 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
3067 device as a condition of probation for the individual; or

3068 (iii) the imposition of home confinement through the use of electronic monitoring in
3069 accordance with Section [41-6a-506](#).

3070 Section 50. Section **46-5-108** is amended to read:

3071 **46-5-108. Public access to legal material in official electronic record.**

3072 An official publisher of legal material in an electronic record that is required to be
3073 preserved under Section ~~[48-5-107]~~ [46-5-107](#) shall ensure that the material is reasonably
3074 available for use by the public on a permanent basis.

3075 Section 51. Section **48-4-102** is amended to read:

3076 **48-4-102. Application and effect of chapter.**

3077 (1) This chapter applies to a benefit company organized under this chapter.

3078 (2) (a) The existence of a provision in this chapter does not itself create an implication
3079 that a contrary or different rule of law is applicable to a limited liability company that is not a
3080 benefit company.

3081 (b) This chapter does not affect a statute or rule of law that is applicable to a limited
3082 liability company that is not a benefit ~~[limited liability]~~ company.

3083 (3) (a) Except as otherwise provided in this chapter, Title 48, Chapter 3a, Utah Revised
3084 Uniform Limited Liability Company Act, applies to a benefit company.

3085 (b) The provisions of this chapter control over any inconsistent provision of Title 48,
3086 Chapter 3a, Utah Revised Uniform Limited Liability Company Act.

3087 (4) The operating agreement of a benefit company may not limit, be inconsistent with,
3088 or supersede a provision of this chapter.

3089 Section 52. Section **48-4-301** is amended to read:

3090 **48-4-301. Standard of conduct for members.**

3091 (1) When discharging a duty under this chapter, each member of a member-managed
3092 benefit company:

3093 (a) shall consider the effect of any action or inaction on:

3094 (i) the members of the benefit company;

3095 (ii) the employees and workforce of the benefit company;

3096 (iii) the interests of customers as beneficiaries of the benefit company's general public

3097 benefit purpose or specific public benefit purpose [~~of the benefit company~~];

3098 (iv) community and societal considerations, including those of each community in
3099 which offices or facilities of the benefit company or the benefit company's subsidiaries or
3100 suppliers are located;

3101 (v) the local and global environment;

3102 (vi) the short-term and long-term interests of the benefit company, including benefits
3103 that may accrue to the benefit company from the benefit company's long-term plans and the
3104 possibility that the interests may be best served by the continued independence of the benefit
3105 company; and

3106 (vii) the ability of the benefit company to accomplish the benefit company's general
3107 public benefit purpose and any specific public benefit purpose; and

3108 (b) may consider other pertinent factors or the interests of any other group that the
3109 member considers appropriate.

3110 (2) A member is not required to prioritize the interests of a person or factor described
3111 in Subsection (1)(a) or (b) over the interests of any other person or factor, unless the benefit
3112 company's certificate of organization states an intention to give priority to certain interests
3113 related to the benefit company's accomplishment of the benefit company's general public
3114 benefit purpose or a specific public benefit purpose identified in the benefit company's
3115 certificate of organization.

3116 (3) A member's consideration of interests and factors in accordance with Subsections
3117 (1) and (2) does not constitute a violation of Section [48-3a-409](#).

3118 (4) A member of a member-managed limited liability company that is a benefit
3119 company does not have a duty to a person who is a beneficiary of the benefit company's general
3120 public benefit purpose or a specific public benefit purpose arising from the person's status as a
3121 beneficiary.

3122 Section 53. Section **51-9-203** is amended to read:

3123 **51-9-203. Requirements for tobacco programs.**

3124 (1) To be eligible to receive funding under this part for a tobacco prevention, reduction,
3125 cessation, or control program, an organization, whether private, governmental, or
3126 quasi-governmental, shall:

3127 (a) submit a request to the Department of Health containing the following information:

3128 (i) for media campaigns to prevent or reduce smoking, the request shall demonstrate
3129 sound management and periodic evaluation of the campaign's relevance to the intended
3130 audience, particularly in campaigns directed toward youth, including audience awareness of the
3131 campaign and recollection of the main message;

3132 (ii) for school-based education programs to prevent and reduce youth smoking, the
3133 request shall describe how the program will be effective in preventing and reducing youth
3134 smoking;

3135 (iii) for community-based programs to prevent and reduce smoking, the request shall
3136 demonstrate that the proposed program:

3137 (A) has a comprehensive strategy with a clear mission and goals;

3138 (B) provides for committed, caring, and professional leadership; and

3139 (C) if directed toward youth:

3140 (I) offers youth-centered activities in youth accessible facilities;

3141 (II) is culturally sensitive, inclusive, and diverse;

3142 (III) involves youth in the planning, delivery, and evaluation of services that affect
3143 them; and

3144 (IV) offers a positive focus that is inclusive of all youth; and

3145 (iv) for enforcement, control, and compliance program, the request shall demonstrate
3146 that the proposed program can reasonably be expected to reduce the extent to which tobacco
3147 products are available to individuals under the age of 19;

3148 (b) agree, by contract, to file an annual written report with the Department of Health.
3149 The report shall contain the following:

3150 (i) the amount funded;

3151 (ii) the amount expended;

3152 (iii) a description of the program or campaign and the number of adults and youth who
3153 participated;

3154 (iv) specific elements of the program or campaign meeting the applicable criteria set
3155 forth in Subsection (1)(a); and

3156 (v) a statement concerning the success and effectiveness of the program or campaign;

3157 (c) agree, by contract, to not use any funds received under this part directly or
3158 indirectly, to:

- 3159 (i) engage in any lobbying or political activity, including the support of, or opposition
 3160 to, candidates, ballot questions, referenda, or similar activities; or
- 3161 (ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to
 3162 enforce:
- 3163 (A) the provisions of the Master Settlement Agreement;
- 3164 (B) Title 26, Chapter 38, Utah Indoor Clean Air Act;
- 3165 (C) [~~Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underage Persons~~] Title
 3166 26, Chapter 62, Part 3, Enforcement; and
- 3167 (D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and
- 3168 (d) agree, by contract, to repay the funds provided under this part if the organization:
- 3169 (i) fails to file a timely report as required by Subsection (1)(b); or
- 3170 (ii) uses any portion of the funds in violation of Subsection (1)(c).
- 3171 (2) The Department of Health shall review and evaluate the success and effectiveness
 3172 of any program or campaign that receives funding pursuant to a request submitted under
 3173 Subsection (1). The review and evaluation:
- 3174 (a) shall include a comparison of annual smoking trends;
- 3175 (b) may be conducted by an independent evaluator; and
- 3176 (c) may be paid for by funds appropriated from the account for that purpose.
- 3177 (3) The Department of Health shall annually report to the Social Services
 3178 Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).
- 3179 (4) An organization that fails to comply with the contract requirements set forth in
 3180 Subsection (1) shall:
- 3181 (a) repay the state as provided in Subsection (1)(d); and
- 3182 (b) be disqualified from receiving funds under this part in any subsequent fiscal year.
- 3183 (5) The attorney general shall be responsible for recovering funds that are required to
 3184 be repaid to the state under this section.
- 3185 (6) Nothing in this section may be construed as applying to funds that are not
 3186 appropriated under this part.
- 3187 Section 54. Section **51-9-408** is amended to read:
- 3188 **51-9-408. Children's Legal Defense Account.**
- 3189 (1) There is created a restricted account within the General Fund known as the

3190 Children's Legal Defense Account.

3191 (2) The purpose of the Children's Legal Defense Account is to provide for programs
3192 that protect and defend the rights, safety, and quality of life of children.

3193 (3) The Legislature shall appropriate money from the account for the administrative
3194 and related costs of the following programs:

3195 (a) implementing the Mandatory Educational Course on Children's Needs for
3196 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
3197 30-3-10.3, 30-3-11.3, [~~and 30-3-15.3,~~] and the Mediation Program - Child Custody or
3198 Parent-time;

3199 (b) implementing the use of guardians ad litem as provided in Sections 78A-2-703,
3200 78A-2-705, 78A-6-902, and 78B-3-102; the training of attorney guardians ad litem and
3201 volunteers as provided in Section 78A-6-902; and termination of parental rights as provided in
3202 Sections 78A-6-117 and 78A-6-118, and Title 78A, Chapter 6, Part 5, Termination of Parental
3203 Rights Act. This account may not be used to supplant funding for the guardian ad litem
3204 program in the juvenile court as provided in Section 78A-6-902;

3205 (c) implementing and administering the Expedited Parent-time Enforcement Program
3206 as provided in Section 30-3-38; and

3207 (d) implementing and administering the Divorce Education for Children Program.

3208 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
3209 Account and used only for the purposes provided in Subsections (3)(a) through (d):

3210 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
3211 as provided in Section 17-16-21; and

3212 (b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any
3213 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

3214 (5) The Division of Finance shall allocate the money described in Subsection (4) from
3215 the General Fund to the Children's Legal Defense Account.

3216 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30
3217 of any fiscal year shall lapse into the General Fund.

3218 Section 55. Section **53-2a-203** is amended to read:

3219 **53-2a-203. Definitions.**

3220 As used in this part:

- 3221 (1) "Chief executive officer" means:
- 3222 (a) for a municipality:
- 3223 (i) the mayor for a municipality operating under all forms of municipal government
- 3224 except the council-manager form of government; or
- 3225 (ii) the city manager for a municipality operating under the council-manager form of
- 3226 government;
- 3227 (b) for a county:
- 3228 (i) the chair of the county commission for a county operating under the county
- 3229 commission or expanded county commission form of government;
- 3230 (ii) the county executive officer for a county operating under the county-executive
- 3231 council form of government; or
- 3232 (iii) the county manager for a county operating under the council-manager form of
- 3233 government; or
- 3234 (c) for a special service district:
- 3235 (i) the chief executive officer of the county or municipality that created the special
- 3236 service district if authority has not been delegated to an administrative control board as
- 3237 provided in Section [17D-1-301](#);
- 3238 (ii) the chair of the administrative control board to which authority has been delegated
- 3239 as provided in Section [17D-1-301](#); or
- 3240 (iii) the general manager or other officer or employee to whom authority has been
- 3241 delegated by the governing body of the special service district as provided in Section
- 3242 [17D-1-301](#); or
- 3243 (d) for a local district:
- 3244 (i) the chair of the board of trustees selected as provided in Section [17B-1-309](#); or
- 3245 (ii) the general manager or other officer or employee to whom authority has been
- 3246 delegated by the board of trustees.
- 3247 (2) "Local emergency" means a condition in any municipality or county of the state
- 3248 which requires that emergency assistance be provided by the affected municipality or county or
- 3249 another political subdivision to save lives and protect property within its jurisdiction in
- 3250 response to a disaster, or to avoid or reduce the threat of a disaster.
- 3251 (3) "Political subdivision" means a municipality, county, special service district, or

3252 local district.

3253 Section 56. Section **53-3-219** is amended to read:

3254 **53-3-219. Suspension of minor's driving privileges.**

3255 (1) The division shall immediately suspend all driving privileges of any person upon
3256 receipt of an order suspending driving privileges under Section **32B-4-409**, Section **32B-4-410**,
3257 Subsection **76-9-701(1)**, or Section **78A-6-606**.

3258 (2) (a) (i) Upon receipt of the first order suspending a person's driving privileges under
3259 Section **32B-4-409**, Section **32B-4-410**, Subsection **76-9-701(1)**, or Section **78A-6-606**, the
3260 division shall:

3261 (A) impose a suspension for a period of one year;

3262 (B) if the person has not been issued an operator license, deny the person's application
3263 for a license or learner's permit for a period of one year; or

3264 (C) if the person is under the age of eligibility for a driver license, deny the person's
3265 application for a license or learner's permit beginning on the date of conviction and continuing
3266 for one year beginning on the date of eligibility for a driver license.

3267 (ii) Upon receipt of the first order suspending a person's driving privileges under this
3268 section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or
3269 (C) if ordered by the court in accordance with Subsection **32B-4-409(5)(b)**, **32B-4-410(4)(b)**,
3270 **76-9-701(4)(b)**, or **78A-6-606~~(3)~~(4)(b)**.

3271 (b) (i) Upon receipt of a second or subsequent order suspending a person's driving
3272 privileges under Section **32B-4-409**, Section **32B-4-410**, Subsection **76-9-701(1)**, or Section
3273 **78A-6-606**, the division shall:

3274 (A) impose a suspension for a period of two years;

3275 (B) if the person has not been issued an operator license or is under the age of
3276 eligibility for a driver license, deny the person's application for a license or learner's permit for
3277 a period of two years; or

3278 (C) if the person is under the age of eligibility for a driver license, deny the person's
3279 application for a license or learner's permit beginning on the date of conviction and continuing
3280 for two years beginning on the date of eligibility for a driver license.

3281 (ii) Upon receipt of the second or subsequent order suspending a person's driving
3282 privileges under Section **32B-4-409**, Section **32B-4-410**, Subsection **76-9-701(1)**, or Section

3283 78A-6-606, the division shall reduce the suspension period if ordered by the court in
3284 accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), 76-9-701(4)(c), or
3285 78A-6-606~~(3)~~(4)(c).

3286 (3) The Driver License Division shall subtract from any suspension or revocation
3287 period for a conviction of a violation of Section 32B-4-409 the number of days for which a
3288 license was previously suspended under Section 53-3-231, if the previous sanction was based
3289 on the same occurrence upon which the record of conviction is based.

3290 (4) After reinstatement of the license described in Subsection (1), a report authorized
3291 under Section 53-3-104 may not contain evidence of the suspension of a minor's license under
3292 this section if the minor has not been convicted of any other offense for which the suspension
3293 under Subsection (1) may be extended.

3294 Section 57. Section 53-5c-201 is amended to read:

3295 **53-5c-201. Voluntary commitment of a firearm by owner cohabitant -- Law**
3296 **enforcement to hold firearm.**

3297 (1) (a) An owner cohabitant may voluntarily commit a firearm to a law enforcement
3298 agency for safekeeping if the owner cohabitant believes that another cohabitant is an immediate
3299 threat to:

- 3300 (i) himself or herself;
3301 (ii) the owner cohabitant; or
3302 (iii) any other person.

3303 (b) A law enforcement agency may not hold a firearm under this section if the law
3304 enforcement agency obtains the firearm in a manner other than the owner cohabitant
3305 voluntarily presenting, of the owner cohabitant's own free will, the firearm to the law
3306 enforcement agency at the agency's office.

3307 (2) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law
3308 enforcement agency that receives a firearm in accordance with this chapter shall:

- 3309 (a) record:
3310 (i) the owner cohabitant's name, address, and phone number;
3311 (ii) the firearm serial number; and
3312 (iii) the date that the firearm was voluntarily committed;
3313 (b) require the owner cohabitant to sign a document attesting that the owner cohabitant

3314 has an ownership interest in the firearm;

3315 (c) hold the firearm in safe custody for 60 days after the day on which the firearm is
3316 voluntarily committed; and

3317 (d) upon proof of identification, return the firearm to:

3318 (i) the owner cohabitant after the expiration of the 60-day period or, if the owner
3319 cohabitant requests return of the firearm before the expiration of the 60-day period, at the time
3320 of the request; or

3321 (ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

3322 (3) The law enforcement agency shall hold the firearm for an additional 60 days:

3323 (a) if the initial 60-day period expires; and

3324 (b) the owner cohabitant requests that the law enforcement agency hold the firearm for
3325 an additional 60 days.

3326 (4) A law enforcement agency may not request or require that the owner cohabitant
3327 provide the name or other information of the cohabitant who poses an immediate threat or any
3328 other cohabitant.

3329 (5) Notwithstanding an ordinance or policy to the contrary adopted in accordance with
3330 Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection
3331 (2), Subsection 53-5c-202[~~(4)~~](3)(b)(iii), or any other record created in the application of this
3332 chapter no later than five days after:

3333 (a) returning a firearm in accordance with Subsection (2)(d); or

3334 (b) disposing of the firearm in accordance with Section 53-5c-202.

3335 (6) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or Mislaid
3336 Personal Property, do not apply to a firearm received by a law enforcement agency in
3337 accordance with this chapter.

3338 (7) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held
3339 in accordance with this chapter.

3340 Section 58. Section 53-9-122 is amended to read:

3341 **53-9-122. Exemptions from licensure.**

3342 Except as otherwise provided by statute or rule, the following individuals may engage
3343 in the practice of an occupation or profession regulated by this [title] chapter, subject to the
3344 stated circumstances and limitations, without being licensed under this title:

3345 (1) an individual licensed under the laws of this state, other than under this [title]
3346 chapter, to practice or engage in an occupation or profession, while engaged in the lawful,
3347 professional, and competent practice of that occupation or profession;

3348 (2) an individual serving in the armed forces of the United States, the United States
3349 Public Health Service, the United States Department of Veterans Affairs, or any other federal
3350 agency while engaged in activities regulated under this title as a part of employment with that
3351 federal agency if the individual holds a valid license to practice the regulated occupation or
3352 profession issued by any other state or jurisdiction recognized by the department; and

3353 (3) the spouse of an individual serving in the armed forces of the United States while
3354 the individual is stationed within this state, if:

3355 (a) the spouse holds a valid license to practice the regulated occupation or profession
3356 issued by any other state or jurisdiction recognized by the department; and

3357 (b) the license is current and the spouse is in good standing in the state or jurisdiction
3358 of licensure.

3359 Section 59. Section **53-10-108** is amended to read:

3360 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
3361 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**
3362 **-- Missing children records -- Penalty for misuse of records.**

3363 (1) As used in this section:

3364 (a) "FBI Rap Back System" means the rap back system maintained by the Federal
3365 Bureau of Investigation.

3366 (b) "Rap back system" means a system that enables authorized entities to receive
3367 ongoing status notifications of any criminal history reported on individuals whose fingerprints
3368 are registered in the system.

3369 (c) "WIN Database" means the Western Identification Network Database that consists
3370 of eight western states sharing one electronic fingerprint database.

3371 (2) Dissemination of information from a criminal history record, including information
3372 obtained from a fingerprint background check, name check, warrant of arrest information, or
3373 information from division files, is limited to:

3374 (a) criminal justice agencies for purposes of administration of criminal justice and for
3375 employment screening by criminal justice agencies;

3376 (b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice
3377 agency to provide services required for the administration of criminal justice;

3378 (ii) the agreement shall specifically authorize access to data, limit the use of the data to
3379 purposes for which given, and ensure the security and confidentiality of the data;

3380 (c) a qualifying entity for employment background checks for their own employees and
3381 persons who have applied for employment with the qualifying entity;

3382 (d) noncriminal justice agencies or individuals for any purpose authorized by statute,
3383 executive order, court rule, court order, or local ordinance;

3384 (e) agencies or individuals for the purpose of obtaining required clearances connected
3385 with foreign travel or obtaining citizenship;

3386 (f) agencies or individuals for the purpose of a preplacement adoptive study, in
3387 accordance with the requirements of Sections [78B-6-128](#) and [78B-6-130](#);

3388 (g) private security agencies through guidelines established by the commissioner for
3389 employment background checks for their own employees and prospective employees;

3390 (h) state agencies for the purpose of conducting a background check for the following
3391 individuals:

3392 (i) employees;

3393 (ii) applicants for employment;

3394 (iii) volunteers; and

3395 (iv) contract employees;

3396 (i) governor's office for the purpose of conducting a background check on the
3397 following individuals:

3398 (i) cabinet members;

3399 (ii) judicial applicants; and

3400 (iii) members of boards, committees, and commissions appointed by the governor;

3401 (j) agencies and individuals as the commissioner authorizes for the express purpose of
3402 research, evaluative, or statistical activities pursuant to an agreement with a criminal justice
3403 agency; and

3404 (k) other agencies and individuals as the commissioner authorizes and finds necessary
3405 for protection of life and property and for offender identification, apprehension, and
3406 prosecution pursuant to an agreement.

3407 (3) An agreement under Subsection (2)(j) shall specifically authorize access to data,
3408 limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of
3409 individuals to whom the information relates, and ensure the confidentiality and security of the
3410 data.

3411 (4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state
3412 agency, or other agency or individual described in Subsections (2)(d) through (i) shall obtain a
3413 signed waiver from the person whose information is requested.

3414 (b) The waiver shall notify the signee:

3415 (i) that a criminal history background check will be conducted;

3416 (ii) who will see the information; and

3417 (iii) how the information will be used.

3418 (c) A qualifying entity under Subsection (2)(c), state agency, or other agency or
3419 individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal
3420 justice name based background check of local databases to the bureau shall provide to the
3421 bureau:

3422 (i) personal identifying information for the subject of the background check; and

3423 (ii) the fee required by Subsection (15)[~~(a)~~(i)].

3424 (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or
3425 individual described in Subsections (2)(d) through (g) that submits a request for a WIN
3426 database check to the bureau shall provide to the bureau:

3427 (i) personal identifying information for the subject of the background check;

3428 (ii) a fingerprint card for the subject of the background check; and

3429 (iii) the fee required by Subsection (15)[~~(a)~~(i)].

3430 (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or
3431 other agency or individual described in Subsections (2)(d) through (i) may only be:

3432 (i) available to individuals involved in the hiring or background investigation of the job
3433 applicant or employee;

3434 (ii) used for the purpose of assisting in making an employment appointment, selection,
3435 or promotion decision; and

3436 (iii) used for the purposes disclosed in the waiver signed in accordance with Subsection
3437 (4)(b).

3438 (f) An individual who disseminates or uses information obtained from the division
3439 under Subsections (2)(c) through (i) for purposes other than those specified under Subsection
3440 (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

3441 (g) A qualifying entity under Subsection (2)(c), state agency, or other agency or
3442 individual described in Subsections (2)(d) through (i) that obtains background check
3443 information shall provide the subject of the background check an opportunity to:

- 3444 (i) review the information received as provided under Subsection (9); and
- 3445 (ii) respond to any information received.

3446 (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3447 division may make rules to implement this Subsection (4).

3448 (i) The division or its employees are not liable for defamation, invasion of privacy,
3449 negligence, or any other claim in connection with the contents of information disseminated
3450 under Subsections (2)(c) through (i).

3451 (5) (a) Any criminal history record information obtained from division files may be
3452 used only for the purposes for which it was provided and may not be further disseminated,
3453 except under Subsection (5)(b), (c), or (d).

3454 (b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be
3455 provided by the agency to the individual who is the subject of the history, another licensed
3456 child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an
3457 adoption.

3458 (c) A criminal history of a defendant provided to a criminal justice agency under
3459 Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel,
3460 upon request during the discovery process, for the purpose of establishing a defense in a
3461 criminal case.

3462 (d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
3463 Transit District Act, that is under contract with a state agency to provide services may, for the
3464 purposes of complying with Subsection [62A-5-103.5\(5\)](#), provide a criminal history record to
3465 the state agency or the agency's designee.

3466 (6) The division may not disseminate criminal history record information to qualifying
3467 entities under Subsection (2)(c) regarding employment background checks if the information is
3468 related to charges:

3469 (a) that have been declined for prosecution;

3470 (b) that have been dismissed; or

3471 (c) regarding which a person has been acquitted.

3472 (7) (a) This section does not preclude the use of the division's central computing

3473 facilities for the storage and retrieval of criminal history record information.

3474 (b) This information shall be stored so it cannot be modified, destroyed, or accessed by
3475 unauthorized agencies or individuals.

3476 (8) Direct access through remote computer terminals to criminal history record
3477 information in the division's files is limited to those agencies authorized by the commissioner
3478 under procedures designed to prevent unauthorized access to this information.

3479 (9) (a) The commissioner shall establish procedures to allow an individual right of
3480 access to review and receive a copy of the individual's criminal history report.

3481 (b) A processing fee for the right of access service, including obtaining a copy of the
3482 individual's criminal history report under Subsection (9)(a) shall be set in accordance with
3483 Section [63J-1-504](#).

3484 (c) (i) The commissioner shall establish procedures for an individual to challenge the
3485 completeness and accuracy of criminal history record information contained in the division's
3486 computerized criminal history files regarding that individual.

3487 (ii) These procedures shall include provisions for amending any information found to
3488 be inaccurate or incomplete.

3489 (10) The private security agencies as provided in Subsection (2)(g):

3490 (a) shall be charged for access; and

3491 (b) shall be registered with the division according to rules made by the division under
3492 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3493 (11) Before providing information requested under this section, the division shall give
3494 priority to criminal justice agencies needs.

3495 (12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access,
3496 use, disclose, or disseminate a record created, maintained, or to which access is granted by the
3497 division or any information contained in a record created, maintained, or to which access is
3498 granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or
3499 policy of a governmental entity.

3500 (b) A person who discovers or becomes aware of any unauthorized use of records
3501 created or maintained, or to which access is granted by the division shall inform the
3502 commissioner and the director of the Utah Bureau of Criminal Identification of the
3503 unauthorized use.

3504 (13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in
3505 Subsection (2)(b) may request that the division register fingerprints taken for the purpose of
3506 conducting current and future criminal background checks under this section with:

- 3507 (i) the WIN Database rap back system, or any successor system;
- 3508 (ii) the FBI Rap Back System; or
- 3509 (iii) a system maintained by the division.

3510 (b) A qualifying entity or an entity described in Subsection (2)(b) may only make a
3511 request under Subsection (13)(a) if the entity:

- 3512 (i) has the authority through state or federal statute or federal executive order;
- 3513 (ii) obtains a signed waiver from the individual whose fingerprints are being registered;

3514 and

3515 (iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives
3516 notifications for individuals with whom the entity maintains an authorizing relationship.

3517 (14) The division is authorized to submit fingerprints to the FBI Rap Back System to
3518 be retained in the FBI Rap Back System for the purpose of being searched by future
3519 submissions to the FBI Rap Back System, including latent fingerprint searches.

3520 (15) (a) The division shall impose fees set in accordance with Section [63J-1-504](#) for
3521 the applicant fingerprint card, name check, and to register fingerprints under Subsection
3522 (13)(a).

3523 (b) Funds generated under this Subsection (15) shall be deposited into the General
3524 Fund as a dedicated credit by the department to cover the costs incurred in providing the
3525 information.

3526 (c) The division may collect fees charged by an outside agency for services required
3527 under this section.

3528 (16) For the purposes of conducting a criminal background check authorized under
3529 Subsection (2)(h) or (2)(i), the Department of Human Resource Management, in accordance
3530 with Title 67, Chapter 19, Utah State Personnel Management Act, and the governor's office

3531 shall have direct access to criminal background information maintained under Title 53, Chapter
3532 10, Part 2, Bureau of Criminal Identification.

3533 Section 60. Section **53-10-202.3** is amended to read:

3534 **53-10-202.3. Suicide Prevention Education Program -- Definitions -- Grant**
3535 **requirements.**

3536 (1) As used in this section:

3537 (a) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)
3538 within the Department of Public Safety.

3539 (b) "Coordinator" means the state suicide prevention coordinator designated in Section
3540 [62A-15-1101](#).

3541 [~~(c) "Course" means the suicide prevention education course created in Subsection~~
3542 ~~[53-10-202\(18\)\(a\)\(iv\)](#);~~]

3543 (2) There is created a Suicide Prevention Education Program to fund suicide
3544 prevention education opportunities for federally licensed firearms dealers who operate a retail
3545 establishment open to the public and the dealers' employees.

3546 (3) The bureau shall provide a grant to an employer in Subsection (2) following the
3547 criteria provided in accordance with Subsection [62A-15-1101](#) ~~[(8)(b)]~~(6).

3548 (4) An employer may apply for a grant of up to \$2,500 under the program.

3549 Section 61. Section **53B-26-102** is amended to read:

3550 **53B-26-102. Definitions.**

3551 As used in this [~~chapter~~] part:

3552 (1) "CTE" means career and technical education.

3553 (2) "CTE region" means an economic service area created in Section [35A-2-101](#).

3554 (3) "Eligible partnership" means:

3555 (a) a regional partnership; or

3556 (b) a statewide partnership.

3557 (4) "Employer" means a private employer, public employer, industry association, the
3558 military, or a union.

3559 (5) "Industry advisory group" means:

3560 (a) a group of at least five employers that represent the workforce needs to which a
3561 proposal submitted under Section [53B-26-103](#) responds; and

3562 (b) a representative of the Governor's Office of Economic Development, appointed by
3563 the executive director of the Governor's Office of Economic Development.

3564 (6) "Institution of higher education" means the University of Utah, Utah State
3565 University, Southern Utah University, Weber State University, Snow College, Dixie State
3566 University, Utah Valley University, or Salt Lake Community College.

3567 (7) "Regional partnership" means a partnership that:

3568 (a) provides educational services within one CTE region; and

3569 (b) is between at least two of the following located in the CTE region:

3570 (i) a technical college;

3571 (ii) a school district or charter school; or

3572 (iii) an institution of higher education.

3573 (8) "Stackable sequence of credentials" means a sequence of credentials that:

3574 (a) an individual can build upon to access an advanced job or higher wage;

3575 (b) is part of a career pathway system;

3576 (c) provides a pathway culminating in the equivalent of an associate's or bachelor's
3577 degree;

3578 (d) facilitates multiple exit and entry points; and

3579 (e) recognizes sub-goals or momentum points.

3580 (9) "Statewide partnership" means a partnership between at least two regional
3581 partnerships.

3582 (10) "Technical college" means:

3583 (a) a college described in Section [53B-2a-105](#);

3584 (b) the School of Applied Technology at Salt Lake Community College established
3585 under Section [53B-16-209](#);

3586 (c) Utah State University Eastern established under Section [53B-18-1201](#); or

3587 (d) the Snow College Richfield campus established under Section [53B-16-205](#).

3588 Section 62. Section **53D-1-102** is amended to read:

3589 **53D-1-102. Definitions.**

3590 As used in this chapter:

3591 (1) "Account" means the School and Institutional Trust Fund Management Account,
3592 created in Section [53D-1-203](#).

- 3593 (2) "Advocacy office director" means the director of the Land Trusts Protection and
 3594 Advocacy Office, appointed under Section [53D-2-203](#).
- 3595 (3) "Beneficiaries":
- 3596 (a) means those for whose benefit the trust fund is managed and preserved, consistent
 3597 with the enabling act, the Utah Constitution, and state law; and
- 3598 (b) does not include other government institutions or agencies, the public at large, or
 3599 the general welfare of the state.
- 3600 (4) "Board" means the board of trustees established in Section [53D-1-301](#).
- 3601 (5) "Director" means the director of the office.
- 3602 (6) "Enabling act" means the act of Congress, dated July 16, 1894, enabling the people
 3603 of Utah to form a constitution and state government and to be admitted into the Union.
- 3604 (7) "Land Trusts Protection and Advocacy Office" or "advocacy office" means the
 3605 Land Trusts Protection and Advocacy Office created in Section [53D-2-201](#).
- 3606 ~~[(7)]~~ (8) "Nominating committee" means the committee established under Section
 3607 [53D-1-501](#).
- 3608 ~~[(8)]~~ (9) "Office" means the School and Institutional Trust Fund Office, created in
 3609 Section [53D-1-201](#).
- 3610 ~~[(9)] "Land Trusts Protection and Advocacy Office" or "advocacy office" means the~~
 3611 ~~Land Trusts Protection and Advocacy Office created in Section [53D-2-201](#);~~
- 3612 (10) "Trust fund" means money derived from:
- 3613 (a) the sale or use of land granted to the state under Sections 6, 8, and 12 of the
 3614 enabling act;
- 3615 (b) proceeds referred to in Section 9 of the enabling act from the sale of public land;
 3616 and
- 3617 (c) revenue and assets referred to in Utah Constitution, Article X, Section 5,
 3618 Subsections (1)(c), (e), and (f).
- 3619 Section 63. Section **53E-9-305** is amended to read:
- 3620 **53E-9-305. Collecting student data -- Prohibition -- Student data collection notice**
 3621 **-- Written consent.**
- 3622 (1) An education entity may not collect a student's:
- 3623 (a) social security number; or

3624 (b) except as required in Section 78A-6-112, criminal record.

3625 (2) An education entity that collects student data shall, in accordance with this section,
3626 prepare and distribute, except as provided in Subsection (3), to parents and students a student
3627 data collection notice statement that:

3628 (a) is a prominent, stand-alone document;

3629 (b) is annually updated and published on the education entity's website;

3630 (c) states the student data that the education entity collects;

3631 (d) states that the education entity will not collect the student data described in
3632 Subsection (1);

3633 (e) states the student data described in Section 53E-9-308 that the education entity may
3634 not share without written consent;

3635 (f) includes the following statement:

3636 "The collection, use, and sharing of student data has both benefits and risks. Parents
3637 and students should learn about these benefits and risks and make choices regarding student
3638 data accordingly.";

3639 (g) describes in general terms how the education entity stores and protects student data;

3640 (h) states a student's rights under this part; and

3641 (i) for an education entity that teaches students in grade 9, 10, 11, or 12, requests
3642 written consent to share student data with the State Board of Regents as described in Section
3643 53E-9-308.

3644 (3) The board may publicly post the board's collection notice described in Subsection
3645 (2).

3646 (4) An education entity may collect the necessary student data of a student if the
3647 education entity provides a student data collection notice to:

3648 (a) the student, if the student is an adult student; or

3649 (b) the student's parent, if the student is not an adult student.

3650 (5) An education entity may collect optional student data if the education entity:

3651 (a) provides, to an individual described in Subsection (4), a student data collection
3652 notice that includes a description of:

3653 (i) the optional student data to be collected; and

3654 (ii) how the education entity will use the optional student data; and

3655 (b) obtains written consent to collect the optional student data from an individual
3656 described in Subsection (4).

3657 (6) An education entity may collect a student's biometric identifier or biometric
3658 information if the education entity:

3659 (a) provides, to an individual described in Subsection (4), a biometric information
3660 collection notice that is separate from a student data collection notice, which states:

3661 (i) the biometric identifier or biometric information to be collected;

3662 (ii) the purpose of collecting the biometric identifier or biometric information; and

3663 (iii) how the education entity will use and store the biometric identifier or biometric
3664 information; and

3665 (b) obtains written consent to collect the biometric identifier or biometric information
3666 from an individual described in Subsection (4).

3667 (7) Except under the circumstances described in Subsection 53G-8-211(2), an
3668 education entity may not refer a student to an [~~alternative evidence-based~~] evidence-based
3669 alternative intervention described in Subsection 53G-8-211(3) without written consent.

3670 Section 64. Section 53F-2-203 is amended to read:

3671 **53F-2-203. Reduction of local education board allocation based on insufficient**
3672 **revenues.**

3673 (1) As used in this section, "Minimum School Program funds" means the total of state
3674 and local funds appropriated for the Minimum School Program, excluding:

3675 (a) an appropriation for a state guaranteed local levy increment as described in Section
3676 53F-2-601; and

3677 (b) the appropriation to charter schools to replace local property tax revenues pursuant
3678 to Section 53F-2-704.

3679 (2) If the Legislature reduces appropriations made to support public schools under this
3680 chapter because an Education Fund budget deficit, as defined in Section 63J-1-312, exists, the
3681 State Board of Education, after consultation with each local education board, shall allocate the
3682 reduction among school districts and charter schools in proportion to each school district's or
3683 charter school's percentage share of Minimum School Program funds.

3684 (3) Except as provided in Subsection (5) and subject to the requirements of Subsection
3685 (7), a local education board shall determine which programs are affected by a reduction

3686 pursuant to Subsection (2) and the amount each program is reduced.

3687 (4) Except as provided in Subsections (5) and (6), the requirement to spend a specified
3688 amount in any particular program is waived if reductions are made pursuant to Subsection (2).

3689 (5) A local education board may not reduce or reallocate spending of funds distributed
3690 to the school district or charter school for the following programs:

3691 (a) educator salary adjustments provided in Section [53F-2-405](#);

3692 (b) the Teacher Salary Supplement Program provided in Section [53F-2-504](#);

3693 (c) the extended year for special educators provided in Section [53F-2-310](#);

3694 (d) USTAR centers provided in Section [53F-2-505](#);

3695 (e) the School LAND Trust Program described in Sections [53F-2-404](#) and

3696 [~~53F-7-1206~~] [53G-7-1206](#); or

3697 (f) a special education program within the basic school program.

3698 (6) A local education board may not reallocate spending of funds distributed to the
3699 school district or charter school to a reserve account.

3700 (7) A local education board that reduces or reallocates funds in accordance with this
3701 section shall report all transfers into, or out of, Minimum School Program programs to the
3702 State Board of Education as part of the school district or charter school's Annual Financial and
3703 Program report.

3704 Section 65. Section **53F-2-409** is amended to read:

3705 **53F-2-409. Concurrent enrollment funding.**

3706 (1) The terms defined in Section [~~53F-10-301~~] [53E-10-301](#) apply to this section.

3707 (2) The State Board of Education shall allocate money appropriated for concurrent
3708 enrollment in accordance with this section.

3709 (3) (a) The State Board of Education shall allocate money appropriated for concurrent
3710 enrollment in proportion to the number of credit hours earned for courses taken where:

3711 (i) an LEA primarily bears the cost of instruction; and

3712 (ii) an institution of higher education primarily bears the cost of instruction.

3713 (b) From the money allocated under Subsection (3)(a)(i), the State Board of Education
3714 shall distribute:

3715 (i) 60% of the money to LEAs; and

3716 (ii) 40% of the money to the State Board of Regents.

3717 (c) From the money allocated under Subsection (3)(a)(ii), the State Board of Education
3718 shall distribute:

3719 (i) 40% of the money to LEAs; and

3720 (ii) 60% of the money to the State Board of Regents.

3721 (d) The State Board of Education shall make rules, in accordance with Title 63G,
3722 Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money to
3723 LEAs under Subsections (3)(b)(i) and (3)(c)(i).

3724 (e) The State Board of Regents shall make rules, in accordance with Title 63G, Chapter
3725 3, Utah Administrative Rulemaking Act, providing for the distribution of the money allocated
3726 to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

3727 (4) Subject to budget constraints, the Legislature shall annually increase the money
3728 appropriated for concurrent enrollment in proportion to the percentage increase over the
3729 previous school year in:

3730 (a) kindergarten through grade 12 student enrollment; and

3731 (b) the value of the weighted pupil unit.

3732 (5) If an LEA receives an allocation of less than \$10,000 under this section, the LEA
3733 may use the allocation as described in Section [53F-2-206](#).

3734 Section 66. Section **53F-2-414** is amended to read:

3735 **53F-2-414. Review of related to basic school programs.**

3736 (1) No later than November 30, 2018, the Public Education Appropriations
3737 Subcommittee shall:

3738 (a) review and make recommendations on each program in the related to basic school
3739 programs described in Subsection (3);

3740 (b) adopt a review schedule going forward for each program described in Subsection
3741 (3), placing a program on a schedule to review annually or every four years; and

3742 (c) review annually or every four years each program according to the schedule adopted
3743 under Subsection (1)(b).

3744 (2) For a related to basic school program that is not listed in Subsection (3) and is
3745 adopted by the Legislature after January 1, 2018, the Public Education Appropriations
3746 Subcommittee shall:

3747 (a) review and make recommendations for the program in the program's initial year of

3748 implementation;

3749 (b) adopt a review schedule going forward for the program, placing the program on a
3750 schedule to review annually or every four years; and

3751 (c) review annually or every four years the program according to the schedule adopted
3752 under Subsection (2)(b).

3753 (3) The programs subject to review under Subsection (1) are the following:

3754 (a) the state-supported transportation program described in Section 53F-2-403;

3755 (b) the state contribution guarantee program for transportation described in Section
3756 53F-2-403;

3757 (c) the weighted pupil unit flexibility allocations described in Section 53F-2-205;

3758 (d) the Enhancement for At-Risk Students Program described in Section 53F-2-410;

3759 (e) the youth in custody program described in Section 53E-3-503;

3760 (f) the adult education program described in Title 53E, Chapter 10, Part 2, Adult
3761 Education;

3762 (g) the Enhancement for Accelerated Students Program described in Section
3763 53F-2-408;

3764 (h) the Centennial Scholarship Program described in Section 53F-2-501;

3765 (i) the concurrent enrollment program described in Title 53E, Chapter 10, Part 3,
3766 Concurrent Enrollment;

3767 (j) the Title I Schools Paraeducators Program described in Section 53F-2-411;

3768 (k) the School LAND Trust Program described in Section 53F-2-404;

3769 (l) the charter school local replacement funding program described in Section
3770 53F-2-702;

3771 (m) the charter school administration allocations described in Section 53F-2-306;

3772 (n) the [~~K-3 Reading Improvement~~] Early Literacy Program described in Section
3773 53F-2-503;

3774 (o) the educator salary adjustments described in Section 53F-2-405;

3775 (p) the Teacher Salary Supplement Program described in Section 53F-2-504;

3776 (q) the school library books and electronic resources appropriation described in Section
3777 53F-2-407;

3778 (r) the matching appropriation for school nurses described in Section 53F-2-519;

3779 ~~[(s) the Critical Languages Program described in Section 53F-2-516;]~~
 3780 [(+) (s) the Dual Language Immersion Program described in Section 53F-2-502;
 3781 [(+)] (t) the Utah Science Technology and Research (USTAR) Initiative Centers
 3782 Program described in Section 53F-2-505;
 3783 [(+)] (u) the Beverley Taylor Sorenson Elementary Arts Learning Program described in
 3784 Section 53F-2-506;
 3785 [(w)] (v) the early intervention program described in Section 53F-2-507; and
 3786 [(x)] (w) the Digital Teaching and Learning Grant Program described in Section
 3787 53F-2-510.
 3788 Section 67. Section 53F-2-704 is amended to read:
 3789 **53F-2-704. Charter school levy state guarantee.**
 3790 (1) As used in this section:
 3791 (a) "Charter school levy per pupil revenues" means the same as that term is defined in
 3792 Section 53F-2-703.
 3793 (b) "Charter school students' average local revenues" means the amount determined as
 3794 follows:
 3795 (i) for each student enrolled in a charter school on the previous October 1, calculate the
 3796 district per pupil local revenues of the school district in which the student resides;
 3797 (ii) sum the district per pupil local revenues for each student enrolled in a charter
 3798 school on the previous October 1; and
 3799 (iii) divide the sum calculated under Subsection (1)[(a)](b)(ii) by the number of
 3800 students enrolled in charter schools on the previous October 1.
 3801 (c) "District local property tax revenues" means the sum of a school district's revenue
 3802 received from the following:
 3803 (i) a voted local levy imposed under Section 53F-8-301;
 3804 (ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended
 3805 for:
 3806 (A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of
 3807 taxable value of the school district's board local levy; and
 3808 (B) the Early Literacy Program described in Section 53F-2-503, up to the amount of
 3809 revenue generated by a .000121 per dollar of taxable value of the school district's board local

3810 levy;

3811 (iii) a capital local levy imposed under Section 53F-8-303; and

3812 (iv) a guarantee described in Section 53F-2-601, 53F-3-202, or 53F-3-203.

3813 (d) "District per pupil local revenues" means, using data from the most recently
3814 published school district annual financial reports and state superintendent's annual report, an
3815 amount equal to district local property tax revenues divided by the sum of:

3816 (i) a school district's average daily membership; and

3817 (ii) the average daily membership of a school district's resident students who attend
3818 charter schools.

3819 (e) "Resident student" means a student who is considered a resident of the school
3820 district under Title 53G, Chapter 6, Part 3, School District Residency.

3821 (f) "Statewide average debt service revenues" means the amount determined as
3822 follows, using data from the most recently published state superintendent's annual report:

3823 (i) sum the revenues of each school district from the debt service levy imposed under
3824 Section 11-14-310; and

3825 (ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district
3826 average daily membership.

3827 (2) (a) Subject to future budget constraints, the Legislature shall provide an
3828 appropriation for charter schools for each charter school student enrolled on October 1 to
3829 supplement the allocation of charter school levy per pupil revenues described in Subsection
3830 53F-2-702(2)(a).

3831 (b) Except as provided in Subsection (2)(c), the amount of money provided by the state
3832 for a charter school student shall be the sum of:

3833 (i) charter school students' average local revenues minus the charter school levy per
3834 pupil revenues; and

3835 (ii) statewide average debt service revenues.

3836 (c) If the total of charter school levy per pupil revenues distributed by the State Board
3837 of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427,
3838 the state shall provide an additional supplement so that a charter school receives at least \$1,427
3839 per student under Subsection 53F-2-702(2).

3840 (d) (i) If the legislative appropriation described in Subsection (2)(a) is insufficient to

3841 provide an amount described in Subsection (2)(b) for each charter school student, the State
3842 Board of Education shall make an adjustment to Minimum School Program allocations as
3843 described in Section 53F-2-205.

3844 (ii) Following an adjustment described in Subsection (2)(d)(i), if legislative
3845 appropriations remain insufficient to provide an amount described in Subsection (2)(b) for each
3846 student enrolled in a charter school, the State Board of Education shall:

3847 (A) distribute to a charter school an amount described in Subsection (2)(b) for each
3848 student enrolled in the charter school under or equal to the maximum number of students the
3849 charter school serves, as described in the charter school's charter school agreement described in
3850 Section 53G-5-303; and

3851 (B) distribute money remaining after the distributions described in Subsection
3852 (2)(d)(ii)(A) to a charter school based on the charter school's share of all students enrolled in
3853 charter schools who exceed the number of maximum students served by charter schools, as
3854 described in charter school agreements entered into under Section 53G-5-303.

3855 (3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter
3856 school under Subsection 53F-2-702(2), 10% shall be expended for funding school facilities
3857 only.

3858 (b) Subsection (3)(a) does not apply to an online charter school.

3859 Section 68. Section 53F-6-301 is amended to read:

3860 **53F-6-301. Definitions.**

3861 As used in this part:

3862 (1) "Board" means the School Readiness Board, created in Section 35A-3-209.

3863 (2) "Economically disadvantaged" means to be eligible to receive free or reduced price
3864 lunch.

3865 (3) "Eligible home-based educational technology provider" means a provider that
3866 intends to offer a home-based educational technology program.

3867 (4) "Eligible LEA" means an LEA that has a data system capacity to collect
3868 longitudinal academic outcome data, including special education use by student, by identifying
3869 each student with a statewide unique student identifier.

3870 (5) (a) "Eligible private provider" means a child care program that:

3871 (i) (A) except as provided in Subsection (5)(b), is licensed under Title 26, Chapter 39,

3872 Utah Child Care Licensing Act; or

3873 (B) is exempt from licensure under Section [26-39-403](#); and

3874 (ii) meets other criteria as established by the board, consistent with Utah Constitution,
3875 Article X, Section 1.

3876 (b) "Eligible private provider" does not include residential child care, as defined in
3877 Section [26-39-102](#).

3878 (6) "Eligible student" means a student:

3879 (a) who is economically disadvantaged; and

3880 (b) whose parent or legal guardian reports that the student has experienced at least one
3881 risk factor.

3882 (7) "Evaluator" means an independent evaluator selected in accordance with Section
3883 ~~[53F-3-309]~~ [53F-6-309](#).

3884 (8) "High quality school readiness program" means a preschool program that:

3885 (a) is provided by an eligible LEA, eligible private provider, or eligible home-based
3886 educational technology provider; and

3887 (b) meets the elements of a high quality school readiness program described in Section
3888 [53F-6-304](#).

3889 (9) "Investor" means a person that enters into a results-based contract to provide
3890 funding to a high quality school readiness program on the condition that the person will receive
3891 payment in accordance with Section [53F-6-309](#) if the high quality school readiness program
3892 meets the performance outcome measures included in the results-based contract.

3893 (10) "Local Education Agency" or "LEA" means a school district or charter school.

3894 (11) "Pay for success program" means a program funded through a model in which the
3895 program is initially funded through private funding and the entity providing the private funding
3896 receives repayment through public funding if the program achieves certain outcomes.

3897 (12) "Performance outcome measure" means a cost avoidance in special education use
3898 for a student at-risk for later special education placement in kindergarten through grade 12 who
3899 receives preschool education funded pursuant to a results-based contract.

3900 (13) "Program intermediary" means an entity selected by the board under Section
3901 [35A-3-209](#) to coordinate with the Department of Workforce Services to provide program
3902 support to the board.

- 3903 (14) "Results-based contract" means a contract that:
3904 (a) is entered into in accordance with Section [~~53F-3-309~~] [53F-6-309](#);
3905 (b) includes a performance outcome measure; and
3906 (c) is between:
3907 (i) the board, a provider of a high quality school readiness program, and an investor; or
3908 (ii) the board and a provider of a high quality school readiness program.

- 3909 (15) "Risk factor" means:
3910 (a) having a mother who was 18 years old or younger when the child was born;
3911 (b) a member of a child's household is incarcerated;
3912 (c) living in a neighborhood with high violence or crime;
3913 (d) having one or both parents with a low reading ability;
3914 (e) moving at least once in the past year;
3915 (f) having ever been in foster care;
3916 (g) living with multiple families in the same household;
3917 (h) having exposure in a child's home to:
3918 (i) physical abuse or domestic violence;
3919 (ii) substance abuse;
3920 (iii) the death or chronic illness of a parent or sibling; or
3921 (iv) mental illness;
3922 (i) the primary language spoken in a child's home is a language other than English; or
3923 (j) having at least one parent who has not completed high school.

3924 (16) "Student at-risk for later special education placement" means an eligible student
3925 who, at preschool entry, scores at least two standard deviations below the mean on the
3926 assessment selected by the board under Section [53F-6-309](#).

3927 Section 69. Section **53G-5-413** is amended to read:

3928 **53G-5-413. Charter school governing board meetings -- Rules of order and**
3929 **procedure.**

- 3930 (1) As used in this section, "rules of order and procedure" means a set of rules that
3931 governs and prescribes in a public meeting:
3932 (a) parliamentary order and procedure;
3933 (b) ethical behavior; and

3934 (c) civil discourse.

3935 (2) [~~Subject to Subsection (4), a~~] A charter school governing board shall:

3936 (a) adopt rules of order and procedure to govern a public meeting of the charter school
3937 governing board;

3938 (b) conduct a public meeting in accordance with the rules of order and procedure
3939 described in Subsection (2)(a); and

3940 (c) make the rules of order and procedure described in Subsection (2)(a) available to
3941 the public:

3942 (i) at each public meeting of the charter school governing board; and

3943 (ii) on the charter school governing board's public website, if available.

3944 (3) The requirements of this section do not affect a charter school governing board's
3945 duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

3946 Section 70. Section **53G-8-508** is amended to read:

3947 **53G-8-508. Admissibility of evidence in civil and criminal actions.**

3948 (1) Evidence relating to a violation of Section [53G-8-505](#), [53G-8-506](#), [53G-8-507](#), or
3949 [53G-8-509](#), [~~or [53G-9-507](#),~~] which is seized by school authorities acting alone, on their own
3950 authority, and not in conjunction with or at the behest of law enforcement authorities is
3951 admissible in civil and criminal actions.

3952 (2) A search under this section must be based on at least a reasonable belief that the
3953 search will turn up evidence of a violation of this part. The measures adopted for the search
3954 must be reasonably related to the objectives of the search and not excessively intrusive in light
3955 of the circumstances, including the age and sex of the person involved and the nature of the
3956 infraction.

3957 Section 71. Section **53G-11-509** is amended to read:

3958 **53G-11-509. Mentor for provisional educator.**

3959 (1) In accordance with Subsections [53E-2-302](#)(7) and [~~53F-6-103~~] [53E-6-103](#)(2)(a)
3960 and (b), the principal or immediate supervisor of a provisional educator shall assign a person
3961 who has received training or will receive training in mentoring educators as a mentor to the
3962 provisional educator.

3963 (2) Where possible, the mentor shall be a career educator who performs substantially
3964 the same duties as the provisional educator and has at least three years of educational

3965 experience.

3966 (3) The mentor shall assist the provisional educator to become effective and competent
3967 in the teaching profession and school system, but may not serve as an evaluator of the
3968 provisional educator.

3969 (4) An educator who is assigned as a mentor may receive compensation for those
3970 services in addition to the educator's regular salary.

3971 Section 72. Section **54-17-807** is amended to read:

3972 **54-17-807. Solar photovoltaic or thermal solar energy facilities.**

3973 (1) As used in this section, "acquire" means to purchase, construct, or purchase the
3974 output from a photovoltaic or thermal solar energy resource.

3975 (2) (a) In accordance with this section, a qualified utility may file an application with
3976 the commission for approval to acquire a photovoltaic or thermal solar energy resource using
3977 rate recovery based on a competitive market price, except as provided in Subsection (2)(b).

3978 (b) A qualified utility may not, under this section, acquire a photovoltaic or thermal
3979 solar energy resource with a generating capacity that is two megawatts or less per meter if that
3980 resource is located on the customer's side of the meter.

3981 (3) The energy resource acquired pursuant to this section may be owned solely or
3982 jointly by a qualified utility or another entity:

3983 (a) to provide renewable energy to a contract customer as provided in Section
3984 [54-17-803](#);

3985 (b) to serve energy to a qualified utility customer as provided in Section [54-17-806](#);

3986 (c) to serve energy to any customers of the qualified utility if the proposed energy
3987 resource's nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of
3988 capacity that is the subject of a contract for the purchase of electricity does not exceed 300
3989 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary
3990 Request for Resource Decision Review; or

3991 (d) to serve energy to any customers of the qualified utility if the proposed energy
3992 resource's nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity
3993 that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long
3994 as the qualified utility complies with this chapter.

3995 (4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an

- 3996 application submitted under Subsection (2):
- 3997 (a) Part 1, General Provisions;
- 3998 (b) Part 2, Solicitation Process;
- 3999 (c) Part 3, Resource Plans and Significant Energy Resource Approval;
- 4000 (d) Part 4, Voluntary Request for Resource Decision Review; and
- 4001 (e) Section [54-17-502](#).
- 4002 (5) The application described in Subsection (2) shall include:
- 4003 (a) a proposed solicitation process for the energy resource;
- 4004 (b) the criteria proposed to be used to evaluate the responses to the solicitation:
- 4005 (i) as determined by the customer, if the energy resource is sought to serve a customer
- 4006 pursuant to Subsection (3)(a) or (b); or
- 4007 (ii) as proposed by the qualified utility, if the energy resource is sought to serve the
- 4008 customers of the qualified utility pursuant to Subsection (3)(c) or (d); and
- 4009 (c) any other information the commission may require.
- 4010 (6) (a) Before approving a solicitation process under this section for an energy resource
- 4011 to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission
- 4012 shall:
- 4013 (i) hold a public hearing; and
- 4014 (ii) provide an opportunity for public comment.
- 4015 (b) The commission may approve a solicitation process under this section only if the
- 4016 commission determines that the solicitation and evaluation processes to be used will create a
- 4017 level playing field in which the qualified utility and other bidders can compete fairly, including
- 4018 with respect to interconnection and transmission requirements imposed on bidders by the
- 4019 solicitation within the control of the commission and the qualified utility, excluding its
- 4020 federally regulated transmission function, and will otherwise serve the public interest.
- 4021 (7) (a) Upon completion of the solicitation process approved under Subsection (6), the
- 4022 qualified utility may seek approval from the commission to acquire the energy resource
- 4023 identified through the solicitation process as the winning bid.
- 4024 (b) Before approving acquisition of an energy resource acquired pursuant to this
- 4025 section, the commission shall:
- 4026 (i) hold a public hearing;

4027 (ii) provide an opportunity for public comment;

4028 (iii) determine whether the solicitation and evaluation processes complied with this
4029 section, commission rules, and the commission's order approving the solicitation process; and

4030 (iv) determine whether the acquisition of the energy resource is just and reasonable,
4031 and in the public interest.

4032 (c) The commission may approve a qualified utility's ownership of an energy resource
4033 or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d)
4034 with rate recovery based on a competitive market price only if the commission determines that
4035 the qualified utility's bid is the lowest cost ownership option for the qualified utility.

4036 (d) If the commission approves a qualified utility's acquisition of an energy resource
4037 under Subsection (3), including entering into a power purchase agreement containing a
4038 purchase option, using rate recovery based on a competitive market price:

4039 (i) the prices approved by the commission shall constitute competitive market prices
4040 for purposes of this section; and

4041 (ii) assets owned by the qualified utility and used to provide service as approved under
4042 this section are not public utility property.

4043 (8) If upon completion of a solicitation process approved under Subsection (6) the
4044 qualified utility proposes not to acquire an energy resource, the qualified utility shall file with
4045 the commission a report explaining its reasons for not acquiring the lowest cost resource bid
4046 into the solicitation, along with any other information the commission requires.

4047 (9) Within six months after a competitive market price for a solar energy resource
4048 acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such
4049 longer period as the commission may determine to be in the public interest, a qualified utility
4050 may file an application with the commission seeking approval to acquire another energy
4051 resource similar to the energy resource for which a competitive market price was established
4052 without going through a new solicitation process. The commission may approve the application
4053 if the qualified utility demonstrates a need to acquire the energy resource, that the competitive
4054 market price remains reasonable, and that the acquisition is in the public interest.

4055 (10) No later than 180 days before the end of the term approved by the commission for
4056 an energy resource acquired under this section and owned by the [~~qualifying~~] qualified utility,
4057 the qualified utility shall file with the commission a request for determination of an appropriate

4058 disposition of the energy resource asset, except that the qualified utility is permitted to retain
4059 the benefits or proceeds and shall be required to assume the costs and risks of ownership of the
4060 energy resource.

4061 (11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah
4062 Administrative Rulemaking Act:

4063 (a) addressing the content and filing of an application under this section;

4064 (b) to establish the solicitation process and criteria to be used to identify the
4065 competitive market price and select an energy resource; and

4066 (c) addressing other factors determined by the commission to be relevant to protect the
4067 public interest and to implement this section.

4068 Section 73. Section **58-1-307** is amended to read:

4069 **58-1-307. Exemptions from licensure.**

4070 (1) Except as otherwise provided by statute or rule, the following individuals may
4071 engage in the practice of their occupation or profession, subject to the stated circumstances and
4072 limitations, without being licensed under this title:

4073 (a) an individual serving in the armed forces of the United States, the United States
4074 Public Health Service, the United States Department of Veterans Affairs, or other federal
4075 agencies while engaged in activities regulated under this chapter as a part of employment with
4076 that federal agency if the individual holds a valid license to practice a regulated occupation or
4077 profession issued by any other state or jurisdiction recognized by the division;

4078 (b) a student engaged in activities constituting the practice of a regulated occupation or
4079 profession while in training in a recognized school approved by the division to the extent the
4080 activities are supervised by qualified faculty, staff, or designee and the activities are a defined
4081 part of the training program;

4082 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,
4083 fellowship, apprenticeship, or on-the-job training program approved by the division while
4084 under the supervision of qualified individuals;

4085 (d) an individual residing in another state and licensed to practice a regulated
4086 occupation or profession in that state, who is called in for a consultation by an individual
4087 licensed in this state, and the services provided are limited to that consultation;

4088 (e) an individual who is invited by a recognized school, association, society, or other

4089 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a
4090 regulated occupation or profession if the individual does not establish a place of business or
4091 regularly engage in the practice of the regulated occupation or profession in this state;

4092 (f) an individual licensed under the laws of this state, other than under this title, to
4093 practice or engage in an occupation or profession, while engaged in the lawful, professional,
4094 and competent practice of that occupation or profession;

4095 (g) an individual licensed in a health care profession in another state who performs that
4096 profession while attending to the immediate needs of a patient for a reasonable period during
4097 which the patient is being transported from outside of this state, into this state, or through this
4098 state;

4099 (h) an individual licensed in another state or country who is in this state temporarily to
4100 attend to the needs of an athletic team or group, except that the practitioner may only attend to
4101 the needs of the athletic team or group, including all individuals who travel with the team or
4102 group in any capacity except as a spectator;

4103 (i) an individual licensed and in good standing in another state, who is in this state:

4104 (i) temporarily, under the invitation and control of a sponsoring entity;

4105 (ii) for a reason associated with a special purpose event, based upon needs that may
4106 exceed the ability of this state to address through its licensees, as determined by the division;
4107 and

4108 (iii) for a limited period of time not to exceed the duration of that event, together with
4109 any necessary preparatory and conclusionary periods; and

4110 (j) the spouse of an individual serving in the armed forces of the United States while
4111 the individual is stationed within this state, provided:

4112 (i) the spouse holds a valid license to practice a regulated occupation or profession
4113 issued by any other state or jurisdiction recognized by the division; and

4114 (ii) the license is current and the spouse is in good standing in the state of licensure.

4115 (2) (a) A practitioner temporarily in this state who is exempted from licensure under
4116 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the
4117 practitioner derives authority to practice.

4118 (b) Violation of a limitation imposed by this section constitutes grounds for removal of
4119 exempt status, denial of license, or other disciplinary proceedings.

4120 (3) An individual who is licensed under a specific chapter of this title to practice or
4121 engage in an occupation or profession may engage in the lawful, professional, and competent
4122 practice of that occupation or profession without additional licensure under other chapters of
4123 this title, except as otherwise provided by this title.

4124 (4) Upon the declaration of a national, state, or local emergency, a public health
4125 emergency as defined in Section [26-23b-102](#), or a declaration by the president of the United
4126 States or other federal official requesting public health-related activities, the division in
4127 collaboration with the board may:

4128 (a) suspend the requirements for permanent or temporary licensure of individuals who
4129 are licensed in another state for the duration of the emergency while engaged in the scope of
4130 practice for which they are licensed in the other state;

4131 (b) modify, under the circumstances described in this Subsection (4) and Subsection
4132 (5), the scope of practice restrictions under this title for individuals who are licensed under this
4133 title as:

4134 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah
4135 Osteopathic Medical Practice Act;

4136 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter ~~31c~~ [31e](#), Nurse
4137 Licensure Compact - Revised;

4138 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

4139 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,
4140 Pharmacy Practice Act;

4141 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act;

4142 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist
4143 Practice Act; and

4144 (vii) a physician assistant under Chapter 70a, Physician Assistant Act;

4145 (c) suspend the requirements for licensure under this title and modify the scope of
4146 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical
4147 services personnel or paramedics required to be licensed under Section [26-8a-302](#);

4148 (d) suspend requirements in Subsections [58-17b-620](#)(3) through (6) which require
4149 certain prescriptive procedures;

4150 (e) exempt or modify the requirement for licensure of an individual who is activated as

4151 a member of a medical reserve corps during a time of emergency as provided in Section
4152 [26A-1-126](#); and

4153 (f) exempt or modify the requirement for licensure of an individual who is registered as
4154 a volunteer health practitioner as provided in Title 26, Chapter 49, Uniform Emergency
4155 Volunteer Health Practitioners Act.

4156 (5) Individuals exempt under Subsection (4)(c) and individuals operating under
4157 modified scope of practice provisions under Subsection (4)(b):

4158 (a) are exempt from licensure or subject to modified scope of practice for the duration
4159 of the emergency;

4160 (b) must be engaged in the distribution of medicines or medical devices in response to
4161 the emergency or declaration; and

4162 (c) must be employed by or volunteering for:

4163 (i) a local or state department of health; or

4164 (ii) a host entity as defined in Section [26-49-102](#).

4165 (6) In accordance with the protocols established under Subsection (8), upon the
4166 declaration of a national, state, or local emergency, the Department of Health or a local health
4167 department shall coordinate with public safety authorities as defined in Subsection
4168 [26-23b-110\(1\)](#) and may:

4169 (a) use a vaccine, antiviral, antibiotic, or other prescription medication that is not a
4170 controlled substance to prevent or treat a disease or condition that gave rise to, or was a
4171 consequence of, the emergency; or

4172 (b) distribute a vaccine, antiviral, antibiotic, or other prescription medication that is not
4173 a controlled substance:

4174 (i) if necessary, to replenish a commercial pharmacy in the event that the commercial
4175 pharmacy's normal source of the vaccine, antiviral, antibiotic, or other prescription medication
4176 is exhausted; or

4177 (ii) for dispensing or direct administration to treat the disease or condition that gave
4178 rise to, or was a consequence of, the emergency by:

4179 (A) a pharmacy;

4180 (B) a prescribing practitioner;

4181 (C) a licensed health care facility;

4182 (D) a federally qualified community health clinic; or

4183 (E) a governmental entity for use by a community more than 50 miles from a person
4184 described in Subsections (6)(b)(ii)(A) through (D).

4185 (7) In accordance with protocols established under Subsection (8), upon the declaration
4186 of a national, state, or local emergency, the Department of Health shall coordinate the
4187 distribution of medications:

4188 (a) received from the strategic national stockpile to local health departments; and

4189 (b) from local health departments to emergency personnel within the local health
4190 departments' geographic region.

4191 (8) The Department of Health shall establish by rule, made in accordance with Title
4192 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for administering, dispensing,
4193 and distributing a vaccine, an antiviral, an antibiotic, or other prescription medication that is
4194 not a controlled substance in the event of a declaration of a national, state, or local emergency.
4195 The protocol shall establish procedures for the Department of Health or a local health
4196 department to:

4197 (a) coordinate the distribution of:

4198 (i) a vaccine, an antiviral, an antibiotic, or other prescription medication that is not a
4199 controlled substance received by the Department of Health from the strategic national stockpile
4200 to local health departments; and

4201 (ii) a vaccine, an antiviral, an antibiotic, or other non-controlled prescription
4202 medication received by a local health department to emergency personnel within the local
4203 health department's geographic region;

4204 (b) authorize the dispensing, administration, or distribution of a vaccine, an antiviral,
4205 an antibiotic, or other prescription medication that is not a controlled substance to the contact
4206 of a patient without a patient-practitioner relationship, if the contact's condition is the same as
4207 that of the physician's patient; and

4208 (c) authorize the administration, distribution, or dispensing of a vaccine, an antiviral,
4209 an antibiotic, or other non-controlled prescription medication to an individual who:

4210 (i) is working in a triage situation;

4211 (ii) is receiving preventative or medical treatment in a triage situation;

4212 (iii) does not have coverage for the prescription in the individual's health insurance

4213 plan;

4214 (iv) is involved in the delivery of medical or other emergency services in response to
4215 the declared national, state, or local emergency; or

4216 (v) otherwise has a direct impact on public health.

4217 (9) The Department of Health shall give notice to the division upon implementation of
4218 the protocol established under Subsection (8).

4219 Section 74. Section **58-31b-308** is amended to read:

4220 **58-31b-308. Exemptions from licensure.**

4221 (1) In addition to the exemptions from licensure in Section **58-1-307**, the following
4222 persons may engage in acts included within the definition of the practice of nursing, subject to
4223 the stated circumstances and limitations, without being licensed under this chapter:

4224 (a) friends, family members, foster parents, or legal guardians of a patient performing
4225 gratuitous nursing care for the patient;

4226 (b) persons providing care in a medical emergency;

4227 (c) persons engaged in the practice of religious tenets of a church or religious
4228 denomination; and

4229 (d) after July 1, 2000, a person licensed to practice nursing by a jurisdiction that has
4230 joined the Nurse Licensure Compact - Revised to the extent permitted by Section ~~[58-31c-102]~~
4231 58-31e-102.

4232 (2) Notwithstanding Subsection (1)(d), the division may, in accordance with Section
4233 ~~[58-31c-102]~~ 58-31e-102, limit or revoke practice privileges in this state of a person licensed to
4234 practice nursing by a jurisdiction that has joined the Nurse Licensing Compact.

4235 Section 75. Section **58-31b-401** is amended to read:

4236 **58-31b-401. Grounds for denial of licensure or certification and disciplinary**
4237 **proceedings.**

4238 (1) Grounds for refusal to issue a license to an applicant, for refusal to renew the
4239 license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee,
4240 to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be
4241 in accordance with Section **58-1-401**.

4242 (2) If a court of competent jurisdiction determines a nurse is incapacitated as defined in
4243 Section **75-1-201** or that the nurse has a mental illness, as defined in Section **62A-15-602**, and

4244 unable to safely engage in the practice of nursing, the director shall immediately suspend the
4245 license of the nurse upon the entry of the judgment of the court, without further proceedings
4246 under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal
4247 from the court's ruling is pending. The director shall promptly notify the nurse in writing of the
4248 suspension.

4249 (3) (a) If the division and the majority of the board find reasonable cause to believe a
4250 nurse who is not determined judicially to be an incapacitated person or to have a mental illness,
4251 is incapable of practicing nursing with reasonable skill regarding the safety of patients, because
4252 of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition,
4253 the board shall recommend that the director file a petition with the division, and cause the
4254 petition to be served upon the nurse with a notice of hearing on the sole issue of the capacity of
4255 the nurse to competently, safely engage in the practice of nursing.

4256 (b) The hearing shall be conducted under Section 58-1-109 and Title 63G, Chapter 4,
4257 Administrative Procedures Act, except as provided in Subsection (4).

4258 (4) (a) Every nurse who accepts the privilege of being licensed under this chapter gives
4259 consent to:

4260 (i) submitting to an immediate mental or physical examination, at the nurse's expense
4261 and by a division-approved practitioner selected by the nurse when directed in writing by the
4262 division and a majority of the board to do so; and

4263 (ii) the admissibility of the reports of the examining practitioner's testimony or
4264 examination, and waives all objections on the ground the reports constitute a privileged
4265 communication.

4266 (b) The examination may be ordered by the division, with the consent of a majority of
4267 the board, only upon a finding of reasonable cause to believe:

4268 (i) the nurse has a mental illness, is incapacitated, or otherwise unable to practice
4269 nursing with reasonable skill and safety; and

4270 (ii) immediate action by the division and the board is necessary to prevent harm to the
4271 nurse's patients or the general public.

4272 (c) (i) Failure of a nurse to submit to the examination ordered under this section is a
4273 ground for the division's immediate suspension of the nurse's license by written order of the
4274 director.

4275 (ii) The division may enter the order of suspension without further compliance with
4276 Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to
4277 submit to the examination ordered under this section was due to circumstances beyond the
4278 control of the nurse and was not related directly to the illness or incapacity of the nurse.

4279 (5) (a) A nurse whose license is suspended under Subsection (2), (3), or (4)(c) has the
4280 right to a hearing to appeal the suspension within 10 days after the license is suspended.

4281 (b) The hearing held under this Subsection (5) shall be conducted in accordance with
4282 Sections [58-1-108](#) and [58-1-109](#) for the sole purpose of determining if sufficient basis exists
4283 for the continuance of the order of suspension in order to prevent harm to the nurse's patients or
4284 the general public.

4285 (6) A nurse whose license is revoked, suspended, or in any way restricted under this
4286 section may request the division and the board to consider, at reasonable intervals, evidence
4287 presented by the nurse, under procedures established by division rule, regarding any change in
4288 the nurse's condition, to determine whether:

4289 (a) the nurse is or is not able to safely and competently engage in the practice of
4290 nursing; and

4291 (b) the nurse is qualified to have the nurse's license to practice under this chapter
4292 restored completely or in part.

4293 (7) Nothing in Section [63G-2-206](#) may be construed as limiting the authority of the
4294 division to report current significant investigative information to the coordinated licensure
4295 information system for transmission to party states as required of the division by Article VII of
4296 the Nurse Licensure Compact - Revised in Section ~~[\[58-31c-102\]](#)~~ [58-31e-102](#).

4297 (8) For purposes of this section:

4298 (a) "licensed" or "license" includes "certified" or "certification" under this chapter; and

4299 (b) any terms or conditions applied to the word "nurse" in this section also apply to a
4300 medication aide certified.

4301 Section 76. Section **58-55-305** is amended to read:

4302 **58-55-305. Exemptions from licensure.**

4303 (1) In addition to the exemptions from licensure in Section [58-1-307](#), the following
4304 persons may engage in acts or practices included within the practice of construction trades,
4305 subject to the stated circumstances and limitations, without being licensed under this chapter:

4306 (a) an authorized representative of the United States government or an authorized
4307 employee of the state or any of its political subdivisions when working on construction work of
4308 the state or the subdivision, and when acting within the terms of the person's trust, office, or
4309 employment;

4310 (b) a person engaged in construction or operation incidental to the construction and
4311 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
4312 districts, and drainage districts or construction and repair relating to farming, dairying,
4313 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
4314 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction
4315 sites, and lumbering;

4316 (c) public utilities operating under the rules of the Public Service Commission on work
4317 incidental to their own business;

4318 (d) sole owners of property engaged in building:

4319 (i) no more than one residential structure per year and no more than three residential
4320 structures per five years on their property for their own noncommercial, nonpublic use; except,
4321 a person other than the property owner or individuals described in Subsection (1)(e), who
4322 engages in building the structure must be licensed under this chapter if the person is otherwise
4323 required to be licensed under this chapter; or

4324 (ii) structures on their property for their own noncommercial, nonpublic use which are
4325 incidental to a residential structure on the property, including sheds, carports, or detached
4326 garages;

4327 (e) (i) a person engaged in construction or renovation of a residential building for
4328 noncommercial, nonpublic use if that person:

4329 (A) works without compensation other than token compensation that is not considered
4330 salary or wages; and

4331 (B) works under the direction of the property owner who engages in building the
4332 structure; and

4333 (ii) as used in this Subsection (1)(e), "token compensation" means compensation paid
4334 by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
4335 exempted from licensure under this Subsection (1)(e), that is:

4336 (A) minimal in value when compared with the fair market value of the services

4337 provided by the person;

4338 (B) not related to the fair market value of the services provided by the person; and

4339 (C) is incidental to the providing of services by the person including paying for or

4340 providing meals or refreshment while services are being provided, or paying reasonable

4341 transportation costs incurred by the person in travel to the site of construction;

4342 (f) a person engaged in the sale or merchandising of personal property that by its design

4343 or manufacture may be attached, installed, or otherwise affixed to real property who has

4344 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or

4345 attach that property;

4346 (g) a contractor submitting a bid on a federal aid highway project, if, before

4347 undertaking construction under that bid, the contractor is licensed under this chapter;

4348 (h) (i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a

4349 person engaged in the alteration, repair, remodeling, or addition to or improvement of a

4350 building with a contracted or agreed value of less than \$3,000, including both labor and

4351 materials, and including all changes or additions to the contracted or agreed upon work; and

4352 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this

4353 section:

4354 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within

4355 any six month period of time:

4356 (I) must be performed by a licensed electrical or plumbing contractor, if the project

4357 involves an electrical or plumbing system; and

4358 (II) may be performed by a licensed journeyman electrician or plumber or an individual

4359 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system

4360 such as a faucet, toilet, fixture, device, outlet, or electrical switch;

4361 (B) installation, repair, or replacement of a residential or commercial gas appliance or a

4362 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has

4363 received certification under Subsection 58-55-308(2) except as otherwise provided in

4364 Subsection 58-55-308(2)(d) or 58-55-308(3);

4365 (C) installation, repair, or replacement of water-based fire protection systems on a

4366 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems

4367 contractor or a licensed journeyman plumber;

4368 (D) work as an alarm business or company or as an alarm company agent shall be
4369 performed by a licensed alarm business or company or a licensed alarm company agent, except
4370 as otherwise provided in this chapter;

4371 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
4372 project must be performed by a licensed alarm business or company or a licensed alarm
4373 company agent;

4374 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
4375 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
4376 licensed by the division;

4377 (G) installation, repair, or replacement of a radon mitigation system or a soil
4378 depressurization system must be performed by a licensed contractor; and

4379 (H) if the total value of the project is greater than \$1,000, the person shall file with the
4380 division a one-time affirmation, subject to periodic reaffirmation as established by division
4381 rule, that the person has:

4382 (I) public liability insurance in coverage amounts and form established by division
4383 rule; and

4384 (II) if applicable, workers compensation insurance which would cover an employee of
4385 the person if that employee worked on the construction project;

4386 (i) a person practicing a specialty contractor classification or construction trade which
4387 the director does not classify by administrative rule as significantly impacting the public's
4388 health, safety, and welfare;

4389 (j) owners and lessees of property and persons regularly employed for wages by owners
4390 or lessees of property or their agents for the purpose of maintaining the property, are exempt
4391 from this chapter when doing work upon the property;

4392 (k) (i) a person engaged in minor plumbing work that is incidental, as defined by the
4393 division by rule, to the replacement or repair of a fixture or an appliance in a residential or
4394 small commercial building, or structure used for agricultural use, as defined in Section
4395 [15A-1-202](#), provided that no modification is made to:

4396 (A) existing culinary water, soil, waste, or vent piping; or

4397 (B) a gas appliance or combustion system; and

4398 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or

- 4399 an appliance is not included in the exemption provided under Subsection (1)(k)(i);
- 4400 (l) a person who ordinarily would be subject to the plumber licensure requirements
- 4401 under this chapter when installing or repairing a water conditioner or other water treatment
- 4402 apparatus if the conditioner or apparatus:
- 4403 (i) meets the appropriate state construction codes or local plumbing standards; and
- 4404 (ii) is installed or repaired under the direction of a person authorized to do the work
- 4405 under an appropriate specialty contractor license;
- 4406 (m) a person who ordinarily would be subject to the electrician licensure requirements
- 4407 under this chapter when employed by:
- 4408 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
- 4409 contractors or constructors, or street railway systems; or
- 4410 (ii) public service corporations, rural electrification associations, or municipal utilities
- 4411 who generate, distribute, or sell electrical energy for light, heat, or power;
- 4412 (n) a person involved in minor electrical work incidental to a mechanical or service
- 4413 installation, including the outdoor installation of an above-ground, prebuilt hot tub;
- 4414 (o) a person who ordinarily would be subject to the electrician licensure requirements
- 4415 under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty
- 4416 contractor license for the electrical work associated with the installation, repair, or maintenance
- 4417 of solar energy panels, may continue the limited electrical work for solar energy panels under a
- 4418 specialty contractor license;
- 4419 (p) a student participating in construction trade education and training programs
- 4420 approved by the commission with the concurrence of the director under the condition that:
- 4421 (i) all work intended as a part of a finished product on which there would normally be
- 4422 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
- 4423 building inspector; and
- 4424 (ii) a licensed contractor obtains the necessary building permits;
- 4425 (q) a delivery person when replacing any of the following existing equipment with a
- 4426 new gas appliance, provided there is an existing gas shutoff valve at the appliance:
- 4427 (i) gas range;
- 4428 (ii) gas dryer;
- 4429 (iii) outdoor gas barbeque; or

4430 (iv) outdoor gas patio heater;

4431 (r) a person performing maintenance on an elevator as defined in ~~[Subsection]~~ Section
4432 58-55-102~~[(14)]~~, if the maintenance is not related to the operating integrity of the elevator; and

4433 (s) an apprentice or helper of an elevator mechanic licensed under this chapter when
4434 working under the general direction of the licensed elevator mechanic.

4435 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit
4436 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall
4437 notify the division, in writing or through electronic transmission, of the issuance of the permit.

4438 Section 77. Section ~~58-61-714~~ is amended to read:

4439 **58-61-714. Third party payment for licensed behavior analyst.**

4440 Notwithstanding the provisions of Section 31A-22-618, payment from third party
4441 payers for behavior analysis may be limited to:

4442 (1) a licensed behavior analyst as defined in ~~[58-61-701]~~ Section 58-61-702; and

4443 (2) the following, working within the scope of their practice:

4444 (a) a physician licensed under Chapter 67, Utah Medical Practice Act or Chapter 68,
4445 Utah Osteopathic Medical Practice Act;

4446 (b) an advanced practice registered nurse licensed under Chapter 31b, Nurse Practice
4447 Act;

4448 (c) a psychologist licensed under this chapter;

4449 (d) a clinical social worker licensed under Chapter 60, Part 2, Social Worker Licensing
4450 Act;

4451 (e) a marriage and family therapist licensed under Chapter 60, Part 3, Marriage and
4452 Family Therapist Licensing Act; and

4453 (f) a clinical mental health counselor licensed under Chapter 60, Part 4, Clinical Mental
4454 Health Counselor Licensing Act.

4455 Section 78. Section ~~58-67-304~~ is amended to read:

4456 **58-67-304. License renewal requirements.**

4457 (1) As a condition precedent for license renewal, each licensee shall, during each
4458 two-year licensure cycle or other cycle defined by division rule:

4459 (a) complete qualified continuing professional education requirements in accordance
4460 with the number of hours and standards defined by division rule made in collaboration with the

4461 board;

4462 (b) appoint a contact person for access to medical records and an alternate contact
4463 person for access to medical records in accordance with Subsection 58-67-302(1)(j);

4464 (c) if the licensee practices medicine in a location with no other persons licensed under
4465 this chapter, provide some method of notice to the licensee's patients of the identity and
4466 location of the contact person and alternate contact person for the licensee; and

4467 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
4468 successfully complete the educational methods and programs described in Subsection
4469 58-67-807(4).

4470 (2) If a renewal period is extended or shortened under Section 58-67-303, the
4471 continuing education hours required for license renewal under this section are increased or
4472 decreased proportionally.

4473 (3) An application to renew a license under this chapter shall:

4474 (a) require a physician to answer the following question: "Do you perform elective
4475 abortions in Utah in a location other than a hospital?"; and

4476 (b) immediately following the question, contain the following statement: "For purposes
4477 of the immediately preceding question, elective abortion means an abortion other than one of
4478 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
4479 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
4480 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
4481 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
4482 the woman is pregnant as a result of rape or incest."

4483 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
4484 to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,
4485 Abortion, if a physician responds positively to the question described in Subsection (3)(a), the
4486 division shall, within 30 days after the day on which it renews the physician's license under this
4487 chapter, inform the Department of Health in writing:

4488 (a) of the name and business address of the physician; and

4489 (b) that the physician responded positively to the question described in Subsection
4490 (3)(a).

4491 (5) The division shall accept and apply toward the hour requirement in Subsection

4492 (1)(a) [~~and~~] any continuing education that a physician completes in accordance with Sections
4493 26-61a-106, 26-61a-403, and 26-61a-601.

4494 Section 79. Section **58-68-304** is amended to read:

4495 **58-68-304. License renewal requirements.**

4496 (1) As a condition precedent for license renewal, each licensee shall, during each
4497 two-year licensure cycle or other cycle defined by division rule:

4498 (a) complete qualified continuing professional education requirements in accordance
4499 with the number of hours and standards defined by division rule in collaboration with the
4500 board;

4501 (b) appoint a contact person for access to medical records and an alternate contact
4502 person for access to medical records in accordance with Subsection 58-68-302(1)(j);

4503 (c) if the licensee practices osteopathic medicine in a location with no other persons
4504 licensed under this chapter, provide some method of notice to the licensee's patients of the
4505 identity and location of the contact person and alternate contact person for access to medical
4506 records for the licensee in accordance with Subsection 58-68-302(1)(k); and

4507 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,
4508 successfully complete the educational methods and programs described in Subsection
4509 58-68-807(4).

4510 (2) If a renewal period is extended or shortened under Section 58-68-303, the
4511 continuing education hours required for license renewal under this section are increased or
4512 decreased proportionally.

4513 (3) An application to renew a license under this chapter shall:

4514 (a) require a physician to answer the following question: "Do you perform elective
4515 abortions in Utah in a location other than a hospital?"; and

4516 (b) immediately following the question, contain the following statement: "For purposes
4517 of the immediately preceding question, elective abortion means an abortion other than one of
4518 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
4519 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
4520 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
4521 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
4522 the woman is pregnant as a result of rape or incest."

4523 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
4524 to the licensing of an abortion clinic, if a physician responds positively to the question
4525 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
4526 renews the physician's license under this chapter, inform the Department of Health in writing:

4527 (a) of the name and business address of the physician; and

4528 (b) that the physician responded positively to the question described in Subsection
4529 (3)(a).

4530 (5) The division shall accept and apply toward the hour requirement in Subsection
4531 (1)(a) [~~and~~] any continuing education that a physician completes in accordance with Sections
4532 [26-61a-106](#), [26-61a-403](#), and [26-61a-601](#).

4533 Section 80. Section **58-80a-102** is amended to read:

4534 **58-80a-102. Definitions.**

4535 As used in this chapter:

4536 (1) "Certified medical language interpreter" means a medical language interpreter who
4537 has received a certificate from the division under this chapter.

4538 (2) "Health care provider" means a person licensed under:

4539 (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

4540 (b) Title 58, Chapter 16a, Utah Optometry Practice Act;

4541 (c) Title 58, Chapter 17b, Pharmacy Practice Act;

4542 (d) Title 58, Chapter 24b, Physical Therapy Practice Act;

4543 (e) Title 58, Chapter 31b, Nurse Practice Act;

4544 (f) Title 58, Chapter [~~31c~~] 31e, Nurse Licensure Compact - Revised;

4545 (g) Title 58, Chapter 31d, Advanced Practice Registered Nurse Compact;

4546 (h) Title 58, Chapter 44a, Nurse Midwife Practice Act;

4547 (i) Title 58, Chapter 57, Respiratory Care Practices Act;

4548 (j) Title 58, Chapter 60, Mental Health Professional Practice Act;

4549 (k) Title 58, Chapter 61, Psychologist Licensing Act;

4550 (l) Title 58, Chapter 67, Utah Medical Practice Act;

4551 (m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

4552 (n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

4553 (o) Title 58, Chapter 70a, Physician Assistant Act;

4554 (p) Title 58, Chapter 71, Naturopathic Physician Practice Act;

4555 (q) Title 58, Chapter 73, Chiropractic Physician Practice Act; or

4556 (r) Title 58, Chapter 77, Direct-Entry Midwife Act.

4557 (3) "Medical language interpreter" means a person who, for compensation, performs
4558 verbal language interpretation services between a health care provider who speaks English and
4559 another person for the purpose of assisting the person in seeking or obtaining medical advice,
4560 diagnoses, or treatment.

4561 (4) "National certification organization" means one of the following national
4562 organizations that certifies medical interpreters:

4563 (a) the National Board of Certification for Medical Interpreters; or

4564 (b) the Certification Commission for Healthcare Interpreters.

4565 (5) "National standards of practice" means the National Standards of Practice,
4566 published by the National Council on Interpreting in Health Care.

4567 Section 81. Section **59-1-306** is amended to read:

4568 **59-1-306. Definition -- State Tax Commission Administrative Charge Account --**
4569 **Amount of administrative charge -- Deposit of revenues into the restricted account --**
4570 **Interest deposited into General Fund -- Expenditure of money deposited into the**
4571 **restricted account.**

4572 (1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge
4573 the commission administers under:

4574 (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

4575 (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

4576 (c) Section [19-6-714](#);

4577 (d) Section [19-6-805](#);

4578 (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax
4579 Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

4580 (f) Section [59-27-105](#);

4581 (g) Section [63H-1-205](#); or

4582 [~~(g)~~] (h) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges[~~;~~ or].

4583 [~~(h)~~ Section [63H-1-205](#).]

4584 (2) There is created a restricted account within the General Fund known as the "State

4585 Tax Commission Administrative Charge Account."

4586 (3) Subject to the other provisions of this section, the restricted account shall consist of
4587 administrative charges the commission retains and deposits in accordance with this section.

4588 (4) For purposes of this section, the administrative charge is a percentage of revenues
4589 the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

4590 (a) 1.5%; or

4591 (b) an equal percentage of revenues the commission collects from each qualifying tax,
4592 fee, or charge sufficient to cover the cost to the commission of administering the qualifying
4593 taxes, fees, or charges.

4594 (5) The commission shall deposit an administrative charge into the restricted account.

4595 (6) Interest earned on the restricted account shall be deposited into the General Fund.

4596 (7) The commission shall expend money appropriated by the Legislature to the
4597 commission from the restricted account to administer qualifying taxes, fees, or charges.

4598 Section 82. Section **59-1-1409** is amended to read:

4599 **59-1-1409. Definition -- Recomputation of amounts due -- Refunds allowed.**

4600 (1) As used in this section, "overpayment" means the amount by which a tax, fee, or
4601 charge a person pays exceeds the amount of tax, fee, or charge the person owes.

4602 (2) If the commission determines that the correct amount of a tax, fee, or charge a
4603 person is required to remit is greater or less than the amount shown to be due on a return, the
4604 commission shall:

4605 (a) recompute the tax, fee, or charge; and

4606 (b) mail notice to the person:

4607 (i) that the commission recomputed the tax, fee, or charge; and

4608 (ii) in accordance with Section [59-1-1404](#).

4609 (3) If the amount of a tax, fee, or charge a person pays exceeds the amount of tax, fee,
4610 or charge the person owes, the commission shall:

4611 (a) credit the overpayment against any liability the person owes; and

4612 (b) refund any balance to:

4613 (i) the person; or

4614 (ii) (A) the person's ~~assign~~ assignee;

4615 (B) the person's personal representative;

4616 (C) the person's successor; or

4617 (D) a person similar to Subsections (3)(b)(ii)(A) through (C) as determined by the
4618 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
4619 Rulemaking Act.

4620 (4) The commission may not credit or refund interest on an overpayment to a person if
4621 the commission determines that the overpayment was made for the purpose of investment.

4622 (5) If the commission erroneously determines an amount of tax, fee, or charge to be
4623 due from a person, the commission shall:

4624 (a) authorize the amount to be cancelled upon the commission's records; and

4625 (b) mail notice to the person:

4626 (i) that the commission cancelled the amount upon the commission's records; and

4627 (ii) in accordance with Section [59-1-1404](#).

4628 Section 83. Section **59-2-1004** is amended to read:

4629 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
4630 **period for appeal -- Public hearing requirements -- Decision of board -- Extensions**
4631 **approved by commission -- Appeal to commission.**

4632 (1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's
4633 real property may make an application to appeal by:

4634 (i) filing the application with the county board of equalization within the time period
4635 described in Subsection (2); or

4636 (ii) making an application by telephone or other electronic means within the time
4637 period described in Subsection (2) if the county legislative body passes a resolution under
4638 Subsection (7) authorizing a taxpayer to make an application by telephone or other electronic
4639 means.

4640 (b) The county board of equalization shall make a rule describing the contents of the
4641 application.

4642 (2) (a) Except as provided in Subsection (2)(b) and for purposes of Subsection (1), a
4643 taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's
4644 real property on or before the later of:

4645 (i) September 15 of the current calendar year; or

4646 (ii) the last day of a 45-day period beginning on the day on which the county auditor

4647 provides the notice under Section [59-2-919.1](#).

4648 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4649 commission shall make rules providing for circumstances under which the county board of
4650 equalization is required to accept an application to appeal that is filed after the time period
4651 prescribed in Subsection (2)(a).

4652 (3) The owner shall include in the application under Subsection (1)(a)(i) the owner's
4653 estimate of the fair market value of the property and any evidence that may indicate that the
4654 assessed valuation of the owner's property is improperly equalized with the assessed valuation
4655 of comparable properties.

4656 (4) In reviewing evidence submitted to a county board of equalization by or on behalf
4657 of an owner or a county assessor, the county board of equalization shall consider and weigh:

4658 (a) the accuracy, reliability, and comparability of the evidence presented by the owner
4659 or the county assessor;

4660 (b) if submitted, the sales price of relevant property that was under contract for sale as
4661 of the lien date but sold after the lien date;

4662 (c) if submitted, the sales offering price of property that was offered for sale as of the
4663 lien date but did not sell, including considering and weighing the amount of time for which,
4664 and manner in which, the property was offered for sale; and

4665 (d) if submitted, other evidence that is relevant to determining the fair market value of
4666 the property.

4667 (5) (a) The county board of equalization shall meet and hold public hearings as
4668 described in Section [59-2-1001](#).

4669 (b) (i) For purposes of this Subsection (5)(b), "significant adjustment" means a
4670 proposed adjustment to the valuation of real property that:

4671 (A) is to be made by a county board of equalization; and

4672 (B) would result in a valuation that differs from the original assessed value by at least
4673 20% and \$1,000,000.

4674 (ii) When a county board of equalization is going to consider a significant adjustment,
4675 the county board of equalization shall:

4676 (A) list the significant adjustment as a separate item on the agenda of the public
4677 hearing at which the county board of equalization is going to consider the significant

4678 adjustment; and

4679 (B) for purposes of the agenda described in Subsection (5)(b)(ii)(A), provide a
4680 description of the property for which the county board of equalization is considering a
4681 significant adjustment.

4682 (c) The county board of equalization shall make a decision on each appeal filed in
4683 accordance with this section within 60 days after the day on which the taxpayer makes an
4684 application.

4685 (d) The commission may approve the extension of a time period provided for in
4686 Subsection (5)(~~b~~)(c) for a county board of equalization to make a decision on an appeal.

4687 (e) Unless the commission approves the extension of a time period under Subsection
4688 (5)(d), if a county board of equalization fails to make a decision on an appeal within the time
4689 period described in Subsection (5)(c), the county legislative body shall:

4690 (i) list the appeal, by property owner and parcel number, on the agenda for the next
4691 meeting the county legislative body holds after the expiration of the time period described in
4692 Subsection (5)(c); and

4693 (ii) hear the appeal at the meeting described in Subsection (5)(e)(i).

4694 (f) The decision of the county board of equalization shall contain:

4695 (i) a determination of the valuation of the property based on fair market value; and

4696 (ii) a conclusion that the fair market value is properly equalized with the assessed value
4697 of comparable properties.

4698 (g) If no evidence is presented before the county board of equalization, the county
4699 board of equalization shall presume that the equalization issue has been met.

4700 (h) (i) If the fair market value of the property that is the subject of the appeal deviates
4701 plus or minus 5% from the assessed value of comparable properties, the county board of
4702 equalization shall adjust the valuation of the appealed property to reflect a value equalized with
4703 the assessed value of comparable properties.

4704 (ii) Subject to Sections [59-2-301.1](#), [59-2-301.2](#), [59-2-301.3](#), and [59-2-301.4](#), equalized
4705 value established under Subsection (5)(h)(i) shall be the assessed value for property tax
4706 purposes until the county assessor is able to evaluate and equalize the assessed value of all
4707 comparable properties to bring all comparable properties into conformity with full fair market
4708 value.

4709 (6) If any taxpayer is dissatisfied with the decision of the county board of equalization,
4710 the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

4711 (7) A county legislative body may pass a resolution authorizing taxpayers owing taxes
4712 on property assessed by that county to file property tax appeals applications under this section
4713 by telephone or other electronic means.

4714 Section 84. Section 59-12-103 is amended to read:

4715 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
4716 **tax revenues.**

4717 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
4718 sales price for amounts paid or charged for the following transactions:

4719 (a) retail sales of tangible personal property made within the state;

4720 (b) amounts paid for:

4721 (i) telecommunications service, other than mobile telecommunications service, that
4722 originates and terminates within the boundaries of this state;

4723 (ii) mobile telecommunications service that originates and terminates within the
4724 boundaries of one state only to the extent permitted by the Mobile Telecommunications
4725 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

4726 (iii) an ancillary service associated with a:

4727 (A) telecommunications service described in Subsection (1)(b)(i); or

4728 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

4729 (c) sales of the following for commercial use:

4730 (i) gas;

4731 (ii) electricity;

4732 (iii) heat;

4733 (iv) coal;

4734 (v) fuel oil; or

4735 (vi) other fuels;

4736 (d) sales of the following for residential use:

4737 (i) gas;

4738 (ii) electricity;

4739 (iii) heat;

- 4740 (iv) coal;
- 4741 (v) fuel oil; or
- 4742 (vi) other fuels;
- 4743 (e) sales of prepared food;
- 4744 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 4745 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 4746 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 4747 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 4748 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 4749 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 4750 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 4751 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 4752 exhibition, cultural, or athletic activity;
- 4753 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 4754 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 4755 (i) the tangible personal property; and
- 4756 (ii) parts used in the repairs or renovations of the tangible personal property described
- 4757 in Subsection (1)(g)(i), regardless of whether:
- 4758 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 4759 property; or
- 4760 (B) the particular parts used in the repairs or renovations of that tangible personal
- 4761 property are exempt from a tax under this chapter;
- 4762 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 4763 assisted cleaning or washing of tangible personal property;
- 4764 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 4765 accommodations and services that are regularly rented for less than 30 consecutive days;
- 4766 (j) amounts paid or charged for laundry or dry cleaning services;
- 4767 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 4768 this state the tangible personal property is:
- 4769 (i) stored;
- 4770 (ii) used; or

- 4771 (iii) otherwise consumed;
- 4772 (l) amounts paid or charged for tangible personal property if within this state the
- 4773 tangible personal property is:
- 4774 (i) stored;
- 4775 (ii) used; or
- 4776 (iii) consumed; and
- 4777 (m) amounts paid or charged for a sale:
- 4778 (i) (A) of a product transferred electronically; or
- 4779 (B) of a repair or renovation of a product transferred electronically; and
- 4780 (ii) regardless of whether the sale provides:
- 4781 (A) a right of permanent use of the product; or
- 4782 (B) a right to use the product that is less than a permanent use, including a right:
- 4783 (I) for a definite or specified length of time; and
- 4784 (II) that terminates upon the occurrence of a condition.
- 4785 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
- 4786 [~~is~~] are imposed on a transaction described in Subsection (1) equal to the sum of:
- 4787 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 4788 (A) (I) through March 31, 2019, 4.70%; and
- 4789 (II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (14)(a); and
- 4790 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 4791 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 4792 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
- 4793 State Sales and Use Tax Act; and
- 4794 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
- 4795 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 4796 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
- 4797 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 4798 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 4799 transaction under this chapter other than this part.
- 4800 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax [~~is~~] are
- 4801 imposed on a transaction described in Subsection (1)(d) equal to the sum of:

- 4802 (i) a state tax imposed on the transaction at a tax rate of 2%; and
4803 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4804 transaction under this chapter other than this part.
- 4805 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax ~~[is]~~ are
4806 imposed on amounts paid or charged for food and food ingredients equal to the sum of:
- 4807 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
4808 a tax rate of 1.75%; and
- 4809 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
4810 amounts paid or charged for food and food ingredients under this chapter other than this part.
- 4811 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
4812 tangible personal property other than food and food ingredients, a state tax and a local tax is
4813 imposed on the entire bundled transaction equal to the sum of:
- 4814 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
- 4815 (I) the tax rate described in Subsection (2)(a)(i)(A); and
- 4816 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
4817 Sales and Use Tax Act, if the location of the transaction as determined under Sections
4818 [59-12-211](#) through [59-12-215](#) is in a county in which the state imposes the tax under Part 18,
4819 Additional State Sales and Use Tax Act; and
- 4820 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
4821 Sales and Use Tax Act, if the location of the transaction as determined under Sections
4822 [59-12-211](#) through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which
4823 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 4824 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
4825 described in Subsection (2)(a)(ii).
- 4826 (ii) If an optional computer software maintenance contract is a bundled transaction that
4827 consists of taxable and nontaxable products that are not separately itemized on an invoice or
4828 similar billing document, the purchase of the optional computer software maintenance contract
4829 is 40% taxable under this chapter and 60% nontaxable under this chapter.
- 4830 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
4831 transaction described in Subsection (2)(d)(i) or (ii):
- 4832 (A) if the sales price of the bundled transaction is attributable to tangible personal

4833 property, a product, or a service that is subject to taxation under this chapter and tangible
4834 personal property, a product, or service that is not subject to taxation under this chapter, the
4835 entire bundled transaction is subject to taxation under this chapter unless:

4836 (I) the seller is able to identify by reasonable and verifiable standards the tangible
4837 personal property, product, or service that is not subject to taxation under this chapter from the
4838 books and records the seller keeps in the seller's regular course of business; or

4839 (II) state or federal law provides otherwise; or

4840 (B) if the sales price of a bundled transaction is attributable to two or more items of
4841 tangible personal property, products, or services that are subject to taxation under this chapter
4842 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
4843 higher tax rate unless:

4844 (I) the seller is able to identify by reasonable and verifiable standards the tangible
4845 personal property, product, or service that is subject to taxation under this chapter at the lower
4846 tax rate from the books and records the seller keeps in the seller's regular course of business; or

4847 (II) state or federal law provides otherwise.

4848 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
4849 seller's regular course of business includes books and records the seller keeps in the regular
4850 course of business for nontax purposes.

4851 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
4852 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
4853 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
4854 of tangible personal property, other property, a product, or a service that is not subject to
4855 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
4856 the seller, at the time of the transaction:

4857 (A) separately states the portion of the transaction that is not subject to taxation under
4858 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

4859 (B) is able to identify by reasonable and verifiable standards, from the books and
4860 records the seller keeps in the seller's regular course of business, the portion of the transaction
4861 that is not subject to taxation under this chapter.

4862 (ii) A purchaser and a seller may correct the taxability of a transaction if:

4863 (A) after the transaction occurs, the purchaser and the seller discover that the portion of

4864 the transaction that is not subject to taxation under this chapter was not separately stated on an
4865 invoice, bill of sale, or similar document provided to the purchaser because of an error or
4866 ignorance of the law; and

4867 (B) the seller is able to identify by reasonable and verifiable standards, from the books
4868 and records the seller keeps in the seller's regular course of business, the portion of the
4869 transaction that is not subject to taxation under this chapter.

4870 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
4871 in the seller's regular course of business includes books and records the seller keeps in the
4872 regular course of business for nontax purposes.

4873 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
4874 personal property, products, or services that are subject to taxation under this chapter at
4875 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
4876 unless the seller, at the time of the transaction:

4877 (A) separately states the items subject to taxation under this chapter at each of the
4878 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

4879 (B) is able to identify by reasonable and verifiable standards the tangible personal
4880 property, product, or service that is subject to taxation under this chapter at the lower tax rate
4881 from the books and records the seller keeps in the seller's regular course of business.

4882 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
4883 seller's regular course of business includes books and records the seller keeps in the regular
4884 course of business for nontax purposes.

4885 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
4886 rate imposed under the following shall take effect on the first day of a calendar quarter:

4887 (i) Subsection (2)(a)(i)(A);

4888 (ii) Subsection (2)(b)(i);

4889 (iii) Subsection (2)(c)(i); or

4890 (iv) Subsection (2)(d)(i)(A)(I).

4891 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
4892 begins on or after the effective date of the tax rate increase if the billing period for the
4893 transaction begins before the effective date of a tax rate increase imposed under:

4894 (A) Subsection (2)(a)(i)(A);

- 4895 (B) Subsection (2)(b)(i);
- 4896 (C) Subsection (2)(c)(i); or
- 4897 (D) Subsection (2)(d)(i)(A)(I).
- 4898 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 4899 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 4900 or the tax rate decrease imposed under:
- 4901 (A) Subsection (2)(a)(i)(A);
- 4902 (B) Subsection (2)(b)(i);
- 4903 (C) Subsection (2)(c)(i); or
- 4904 (D) Subsection (2)(d)(i)(A)(I).
- 4905 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 4906 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 4907 change in a tax rate takes effect:
- 4908 (A) on the first day of a calendar quarter; and
- 4909 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 4910 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 4911 (A) Subsection (2)(a)(i)(A);
- 4912 (B) Subsection (2)(b)(i);
- 4913 (C) Subsection (2)(c)(i); or
- 4914 (D) Subsection (2)(d)(i)(A)(I).
- 4915 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 4916 the commission may by rule define the term "catalogue sale."
- 4917 (3) (a) The following state taxes shall be deposited into the General Fund:
- 4918 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 4919 (ii) the tax imposed by Subsection (2)(b)(i);
- 4920 (iii) the tax imposed by Subsection (2)(c)(i); or
- 4921 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 4922 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 4923 in this chapter:
- 4924 (i) the tax imposed by Subsection (2)(a)(ii);
- 4925 (ii) the tax imposed by Subsection (2)(b)(ii);

4926 (iii) the tax imposed by Subsection (2)(c)(ii); and
4927 (iv) the tax imposed by Subsection (2)(d)(i)(B).
4928 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4929 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
4930 through (g):
4931 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
4932 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
4933 (B) for the fiscal year; or
4934 (ii) \$17,500,000.
4935 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
4936 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
4937 Department of Natural Resources to:
4938 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
4939 protect sensitive plant and animal species; or
4940 (B) award grants, up to the amount authorized by the Legislature in an appropriations
4941 act, to political subdivisions of the state to implement the measures described in Subsections
4942 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
4943 (ii) Money transferred to the Department of Natural Resources under Subsection
4944 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
4945 person to list or attempt to have listed a species as threatened or endangered under the
4946 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
4947 (iii) At the end of each fiscal year:
4948 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4949 Conservation and Development Fund created in Section 73-10-24;
4950 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4951 Program Subaccount created in Section 73-10c-5; and
4952 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4953 Program Subaccount created in Section 73-10c-5.
4954 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
4955 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
4956 created in Section 4-18-106.

4957 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
4958 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
4959 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
4960 water rights.

4961 (ii) At the end of each fiscal year:

4962 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
4963 Conservation and Development Fund created in Section 73-10-24;

4964 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
4965 Program Subaccount created in Section 73-10c-5; and

4966 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
4967 Program Subaccount created in Section 73-10c-5.

4968 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
4969 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
4970 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

4971 (ii) In addition to the uses allowed of the Water Resources Conservation and
4972 Development Fund under Section 73-10-24, the Water Resources Conservation and
4973 Development Fund may also be used to:

4974 (A) conduct hydrologic and geotechnical investigations by the Division of Water
4975 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
4976 quantifying surface and ground water resources and describing the hydrologic systems of an
4977 area in sufficient detail so as to enable local and state resource managers to plan for and
4978 accommodate growth in water use without jeopardizing the resource;

4979 (B) fund state required dam safety improvements; and

4980 (C) protect the state's interest in interstate water compact allocations, including the
4981 hiring of technical and legal staff.

4982 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4983 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
4984 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4985 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
4986 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
4987 created in Section 73-10c-5 for use by the Division of Drinking Water to:

4988 (i) provide for the installation and repair of collection, treatment, storage, and
4989 distribution facilities for any public water system, as defined in Section 19-4-102;
4990 (ii) develop underground sources of water, including springs and wells; and
4991 (iii) develop surface water sources.

4992 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
4993 2006, the difference between the following amounts shall be expended as provided in this
4994 Subsection (5), if that difference is greater than \$1:

4995 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
4996 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
4997 (ii) \$17,500,000.

4998 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
4999 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
5000 credits; and
5001 (B) expended by the Department of Natural Resources for watershed rehabilitation or
5002 restoration.

5003 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
5004 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
5005 created in Section 73-10-24.

5006 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
5007 remaining difference described in Subsection (5)(a) shall be:
5008 (A) transferred each fiscal year to the Division of Water Resources as dedicated
5009 credits; and
5010 (B) expended by the Division of Water Resources for cloud-seeding projects
5011 authorized by Title 73, Chapter 15, Modification of Weather.

5012 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
5013 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
5014 created in Section 73-10-24.

5015 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
5016 remaining difference described in Subsection (5)(a) shall be deposited into the Water
5017 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
5018 Division of Water Resources for:

- 5019 (i) preconstruction costs:
- 5020 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
- 5021 26, Bear River Development Act; and
- 5022 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
- 5023 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
- 5024 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
- 5025 Chapter 26, Bear River Development Act;
- 5026 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
- 5027 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and
- 5028 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
- 5029 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).
- 5030 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
- 5031 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
- 5032 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
- 5033 incurred for employing additional technical staff for the administration of water rights.
- 5034 (f) At the end of each fiscal year, any unexpended dedicated credits described in
- 5035 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
- 5036 Fund created in Section 73-10-24.
- 5037 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
- 5038 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
- 5039 (1) for the fiscal year shall be deposited as follows:
- 5040 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
- 5041 shall be deposited into the Transportation Investment Fund of 2005 created by Section
- 5042 72-2-124;
- 5043 (b) for fiscal year 2017-18 only:
- 5044 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
- 5045 Transportation Investment Fund of 2005 created by Section 72-2-124; and
- 5046 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
- 5047 Water Infrastructure Restricted Account created by Section 73-10g-103;
- 5048 (c) for fiscal year 2018-19 only:
- 5049 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the

5050 Transportation Investment Fund of 2005 created by Section 72-2-124; and
5051 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
5052 Water Infrastructure Restricted Account created by Section 73-10g-103;
5053 (d) for fiscal year 2019-20 only:
5054 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
5055 Transportation Investment Fund of 2005 created by Section 72-2-124; and
5056 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
5057 Water Infrastructure Restricted Account created by Section 73-10g-103;
5058 (e) for fiscal year 2020-21 only:
5059 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
5060 Transportation Investment Fund of 2005 created by Section 72-2-124; and
5061 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
5062 Water Infrastructure Restricted Account created by Section 73-10g-103; and
5063 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
5064 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
5065 created by Section 73-10g-103.
5066 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
5067 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
5068 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
5069 created by Section 72-2-124:
5070 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
5071 the revenues collected from the following taxes, which represents a portion of the
5072 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
5073 on vehicles and vehicle-related products:
5074 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
5075 (B) the tax imposed by Subsection (2)(b)(i);
5076 (C) the tax imposed by Subsection (2)(c)(i); and
5077 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
5078 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
5079 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
5080 (D) that exceeds the amount collected from the sales and use taxes described in Subsections

5081 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

5082 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
5083 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
5084 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
5085 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
5086 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
5087 (7)(a) equal to the product of:

5088 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
5089 previous fiscal year; and

5090 (B) the total sales and use tax revenue generated by the taxes described in Subsections
5091 (7)(a)(i)(A) through (D) in the current fiscal year.

5092 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
5093 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
5094 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
5095 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
5096 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

5097 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
5098 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
5099 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
5100 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
5101 current fiscal year under Subsection (7)(a).

5102 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
5103 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
5104 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
5105 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

5106 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
5107 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
5108 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
5109 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

5110 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
5111 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or

5112 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
5113 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)
5114 in an amount equal to 3.68% of the revenues collected from the following taxes:

5115 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

5116 (B) the tax imposed by Subsection (2)(b)(i);

5117 (C) the tax imposed by Subsection (2)(c)(i); and

5118 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

5119 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
5120 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
5121 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
5122 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
5123 sale or use in this state that exceeds 29.4 cents per gallon.

5124 (iii) The commission shall annually deposit the amount described in Subsection
5125 (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

5126 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
5127 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
5128 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

5129 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
5130 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
5131 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
5132 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
5133 the transactions described in Subsection (1).

5134 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
5135 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
5136 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
5137 amount of revenue described as follows:

5138 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
5139 tax rate on the transactions described in Subsection (1);

5140 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
5141 tax rate on the transactions described in Subsection (1);

5142 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%

5143 tax rate on the transactions described in Subsection (1);

5144 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
5145 .05% tax rate on the transactions described in Subsection (1); and

5146 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
5147 tax rate on the transactions described in Subsection (1).

5148 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
5149 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
5150 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
5151 transaction attributable to food and food ingredients and tangible personal property other than
5152 food and food ingredients described in Subsection (2)(d).

5153 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
5154 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
5155 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
5156 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
5157 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
5158 created in Section 63N-2-512.

5159 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
5160 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
5161 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

5162 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
5163 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
5164 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

5165 (13) Notwithstanding Subsections (4) through (12) and (14), an amount required to be
5166 expended or deposited in accordance with Subsections (4) through (12) and (14) may not
5167 include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

5168 (14) (a) The rate specified in this subsection is 0.15%.

5169 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

5170 (i) on or before September 30, 2019, transfer the amount of revenue generated by a
5171 0.15% tax rate imposed beginning on April 1, 2019, and ending on June 30, 2019, on the
5172 transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) as dedicated
5173 credits to the Division of Health Care Financing; and

5174 (ii) for a fiscal year beginning on or after fiscal year 2019-20, annually transfer the
5175 amount of revenue generated by a 0.15% tax rate on the transactions that are subject to the
5176 sales and use tax under Subsection (2)(a)(i)(A) as dedicated credits to the Division of Health
5177 Care Financing.

5178 (c) The revenue described in Subsection (14)(b) that the Division of Finance transfers
5179 to the Division of Health Care Financing as dedicated credits shall be expended for the
5180 following uses:

5181 (i) implementation of the Medicaid expansion described in Sections 26-18-3.1(4) and
5182 26-18-3.9(2)(b);

5183 (ii) if revenue remains after the use specified in Subsection (14)(c)(i), other measures
5184 required by Section 26-18-3.9; and

5185 (iii) if revenue remains after the uses specified in Subsections (14)(c)(i) and (ii), other
5186 measures described in Title 26, Chapter 18, Medical Assistance Act.

5187 Section 85. Section 59-12-104 is amended to read:

5188 **59-12-104. Exemptions.**

5189 Exemptions from the taxes imposed by this chapter are as follows:

5190 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
5191 under Chapter 13, Motor and Special Fuel Tax Act;

5192 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
5193 subdivisions; however, this exemption does not apply to sales of:

5194 (a) construction materials except:

5195 (i) construction materials purchased by or on behalf of institutions of the public
5196 education system as defined in Utah Constitution, Article X, Section 2, provided the
5197 construction materials are clearly identified and segregated and installed or converted to real
5198 property which is owned by institutions of the public education system; and

5199 (ii) construction materials purchased by the state, its institutions, or its political
5200 subdivisions which are installed or converted to real property by employees of the state, its
5201 institutions, or its political subdivisions; or

5202 (b) tangible personal property in connection with the construction, operation,
5203 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
5204 providing additional project capacity, as defined in Section 11-13-103;

- 5205 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 5206 (i) the proceeds of each sale do not exceed \$1; and
- 5207 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 5208 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 5209 (b) Subsection (3)(a) applies to:
- 5210 (i) food and food ingredients; or
- 5211 (ii) prepared food;
- 5212 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 5213 (i) alcoholic beverages;
- 5214 (ii) food and food ingredients; or
- 5215 (iii) prepared food;
- 5216 (b) sales of tangible personal property or a product transferred electronically:
- 5217 (i) to a passenger;
- 5218 (ii) by a commercial airline carrier; and
- 5219 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 5220 (c) services related to Subsection (4)(a) or (b);
- 5221 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 5222 and equipment:
- 5223 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 5224 North American Industry Classification System of the federal Executive Office of the
- 5225 President, Office of Management and Budget; and
- 5226 (II) for:
- 5227 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 5228 equipment in the aircraft;
- 5229 (Bb) renovation of an aircraft; or
- 5230 (Cc) repair of an aircraft; or
- 5231 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 5232 commerce; or
- 5233 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 5234 aircraft operated by a common carrier in interstate or foreign commerce; and
- 5235 (b) notwithstanding the time period of Subsection [59-1-1410\(8\)](#) for filing for a refund,

5236 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
5237 refund:

5238 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

5239 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

5240 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
5241 the sale prior to filing for the refund;

5242 (iv) for sales and use taxes paid under this chapter on the sale;

5243 (v) in accordance with Section 59-1-1410; and

5244 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
5245 the person files for the refund on or before September 30, 2011;

5246 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
5247 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
5248 exhibitor, distributor, or commercial television or radio broadcaster;

5249 (7) (a) except as provided in Subsection [~~(88)~~] (85) and subject to Subsection (7)(b),
5250 sales of cleaning or washing of tangible personal property if the cleaning or washing of the
5251 tangible personal property is not assisted cleaning or washing of tangible personal property;

5252 (b) if a seller that sells at the same business location assisted cleaning or washing of
5253 tangible personal property and cleaning or washing of tangible personal property that is not
5254 assisted cleaning or washing of tangible personal property, the exemption described in
5255 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
5256 or washing of the tangible personal property; and

5257 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
5258 Utah Administrative Rulemaking Act, the commission may make rules:

5259 (i) governing the circumstances under which sales are at the same business location;
5260 and

5261 (ii) establishing the procedures and requirements for a seller to separately account for
5262 sales of assisted cleaning or washing of tangible personal property;

5263 (8) sales made to or by religious or charitable institutions in the conduct of their regular
5264 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
5265 fulfilled;

5266 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

5267 this state if the vehicle is:

5268 (a) not registered in this state; and

5269 (b) (i) not used in this state; or

5270 (ii) used in this state:

5271 (A) if the vehicle is not used to conduct business, for a time period that does not

5272 exceed the longer of:

5273 (I) 30 days in any calendar year; or

5274 (II) the time period necessary to transport the vehicle to the borders of this state; or

5275 (B) if the vehicle is used to conduct business, for the time period necessary to transport

5276 the vehicle to the borders of this state;

5277 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

5278 (i) the item is intended for human use; and

5279 (ii) (A) a prescription was issued for the item; or

5280 (B) the item was purchased by a hospital or other medical facility; and

5281 (b) (i) Subsection (10)(a) applies to:

5282 (A) a drug;

5283 (B) a syringe; or

5284 (C) a stoma supply; and

5285 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5286 commission may by rule define the terms:

5287 (A) "syringe"; or

5288 (B) "stoma supply";

5289 (11) purchases or leases exempt under Section [19-12-201](#);

5290 (12) (a) sales of an item described in Subsection (12)(c) served by:

5291 (i) the following if the item described in Subsection (12)(c) is not available to the

5292 general public:

5293 (A) a church; or

5294 (B) a charitable institution; or

5295 (ii) an institution of higher education if:

5296 (A) the item described in Subsection (12)(c) is not available to the general public; or

5297 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

5298 offered by the institution of higher education; or
5299 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
5300 (i) a medical facility; or
5301 (ii) a nursing facility; and
5302 (c) Subsections (12)(a) and (b) apply to:
5303 (i) food and food ingredients;
5304 (ii) prepared food; or
5305 (iii) alcoholic beverages;
5306 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
5307 or a product transferred electronically by a person:
5308 (i) regardless of the number of transactions involving the sale of that tangible personal
5309 property or product transferred electronically by that person; and
5310 (ii) not regularly engaged in the business of selling that type of tangible personal
5311 property or product transferred electronically;
5312 (b) this Subsection (13) does not apply if:
5313 (i) the sale is one of a series of sales of a character to indicate that the person is
5314 regularly engaged in the business of selling that type of tangible personal property or product
5315 transferred electronically;
5316 (ii) the person holds that person out as regularly engaged in the business of selling that
5317 type of tangible personal property or product transferred electronically;
5318 (iii) the person sells an item of tangible personal property or product transferred
5319 electronically that the person purchased as a sale that is exempt under Subsection (25); or
5320 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
5321 this state in which case the tax is based upon:
5322 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
5323 sold; or
5324 (B) in the absence of a bill of sale or other written evidence of value, the fair market
5325 value of the vehicle or vessel being sold at the time of the sale as determined by the
5326 commission; and
5327 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5328 commission shall make rules establishing the circumstances under which:

- 5329 (i) a person is regularly engaged in the business of selling a type of tangible personal
5330 property or product transferred electronically;
- 5331 (ii) a sale of tangible personal property or a product transferred electronically is one of
5332 a series of sales of a character to indicate that a person is regularly engaged in the business of
5333 selling that type of tangible personal property or product transferred electronically; or
- 5334 (iii) a person holds that person out as regularly engaged in the business of selling a type
5335 of tangible personal property or product transferred electronically;
- 5336 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5337 operating repair or replacement parts, or materials, except for office equipment or office
5338 supplies, by:
 - 5339 (a) a manufacturing facility that:
 - 5340 (i) is located in the state; and
 - 5341 (ii) uses or consumes the machinery, equipment, normal operating repair or
5342 replacement parts, or materials:
 - 5343 (A) in the manufacturing process to manufacture an item sold as tangible personal
5344 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
5345 Utah Administrative Rulemaking Act; or
 - 5346 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
5347 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5348 Administrative Rulemaking Act;
 - 5349 (b) an establishment, as the commission defines that term in accordance with Title
5350 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - 5351 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
5352 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
5353 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
5354 2002 North American Industry Classification System of the federal Executive Office of the
5355 President, Office of Management and Budget;
 - 5356 (ii) is located in the state; and
 - 5357 (iii) uses or consumes the machinery, equipment, normal operating repair or
5358 replacement parts, or materials in:
 - 5359 (A) the production process to produce an item sold as tangible personal property, as the

5360 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5361 Administrative Rulemaking Act;

5362 (B) research and development, as the commission may define that phrase in accordance
5363 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5364 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
5365 produced from mining;

5366 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
5367 mining; or

5368 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

5369 (c) an establishment, as the commission defines that term in accordance with Title 63G,
5370 Chapter 3, Utah Administrative Rulemaking Act, that:

5371 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
5372 American Industry Classification System of the federal Executive Office of the President,
5373 Office of Management and Budget;

5374 (ii) is located in the state; and

5375 (iii) uses or consumes the machinery, equipment, normal operating repair or
5376 replacement parts, or materials in the operation of the web search portal;

5377 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

5378 (i) tooling;

5379 (ii) special tooling;

5380 (iii) support equipment;

5381 (iv) special test equipment; or

5382 (v) parts used in the repairs or renovations of tooling or equipment described in
5383 Subsections (15)(a)(i) through (iv); and

5384 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

5385 (i) the tooling, equipment, or parts are used or consumed exclusively in the
5386 performance of any aerospace or electronics industry contract with the United States
5387 government or any subcontract under that contract; and

5388 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
5389 title to the tooling, equipment, or parts is vested in the United States government as evidenced
5390 by:

- 5391 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 5392 (B) listing on a government-approved property record if placing a government
- 5393 identification tag on the tooling, equipment, or parts is impractical;
- 5394 (16) sales of newspapers or newspaper subscriptions;
- 5395 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
- 5396 product transferred electronically traded in as full or part payment of the purchase price, except
- 5397 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
- 5398 trade-ins are limited to other vehicles only, and the tax is based upon:
- 5399 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 5400 vehicle being traded in; or
- 5401 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 5402 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 5403 commission; and
- 5404 (b) Subsection (17)(a) does not apply to the following items of tangible personal
- 5405 property or products transferred electronically traded in as full or part payment of the purchase
- 5406 price:
- 5407 (i) money;
- 5408 (ii) electricity;
- 5409 (iii) water;
- 5410 (iv) gas; or
- 5411 (v) steam;
- 5412 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
- 5413 or a product transferred electronically used or consumed primarily and directly in farming
- 5414 operations, regardless of whether the tangible personal property or product transferred
- 5415 electronically:
- 5416 (A) becomes part of real estate; or
- 5417 (B) is installed by a:
- 5418 (I) farmer;
- 5419 (II) contractor; or
- 5420 (III) subcontractor; or
- 5421 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

5422 product transferred electronically if the tangible personal property or product transferred
5423 electronically is exempt under Subsection (18)(a)(i); and
5424 (b) amounts paid or charged for the following are subject to the taxes imposed by this
5425 chapter:
5426 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
5427 supplies if used in a manner that is incidental to farming; and
5428 (B) tangible personal property that is considered to be used in a manner that is
5429 incidental to farming includes:
5430 (I) hand tools; or
5431 (II) maintenance and janitorial equipment and supplies;
5432 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
5433 transferred electronically if the tangible personal property or product transferred electronically
5434 is used in an activity other than farming; and
5435 (B) tangible personal property or a product transferred electronically that is considered
5436 to be used in an activity other than farming includes:
5437 (I) office equipment and supplies; or
5438 (II) equipment and supplies used in:
5439 (Aa) the sale or distribution of farm products;
5440 (Bb) research; or
5441 (Cc) transportation; or
5442 (iii) a vehicle required to be registered by the laws of this state during the period
5443 ending two years after the date of the vehicle's purchase;
5444 (19) sales of hay;
5445 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
5446 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
5447 garden, farm, or other agricultural produce is sold by:
5448 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
5449 agricultural produce;
5450 (b) an employee of the producer described in Subsection (20)(a); or
5451 (c) a member of the immediate family of the producer described in Subsection (20)(a);
5452 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

5453 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

5454 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
5455 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
5456 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
5457 manufacturer, processor, wholesaler, or retailer;

5458 (23) a product stored in the state for resale;

5459 (24) (a) purchases of a product if:

5460 (i) the product is:

5461 (A) purchased outside of this state;

5462 (B) brought into this state:

5463 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

5464 (II) by a nonresident person who is not living or working in this state at the time of the
5465 purchase;

5466 (C) used for the personal use or enjoyment of the nonresident person described in
5467 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

5468 (D) not used in conducting business in this state; and

5469 (ii) for:

5470 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
5471 the product for a purpose for which the product is designed occurs outside of this state;

5472 (B) a boat, the boat is registered outside of this state; or

5473 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5474 outside of this state;

5475 (b) the exemption provided for in Subsection (24)(a) does not apply to:

5476 (i) a lease or rental of a product; or

5477 (ii) a sale of a vehicle exempt under Subsection (33); and

5478 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
5479 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
5480 following:

5481 (i) conducting business in this state if that phrase has the same meaning in this
5482 Subsection (24) as in Subsection (63);

5483 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

5484 as in Subsection (63); or

5485 (iii) a purpose for which a product is designed if that phrase has the same meaning in
5486 this Subsection (24) as in Subsection (63);

5487 (25) a product purchased for resale in the regular course of business, either in its
5488 original form or as an ingredient or component part of a manufactured or compounded product;

5489 (26) a product upon which a sales or use tax was paid to some other state, or one of its
5490 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
5491 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
5492 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
5493 Act;

5494 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
5495 person for use in compounding a service taxable under the subsections;

5496 (28) purchases made in accordance with the special supplemental nutrition program for
5497 women, infants, and children established in 42 U.S.C. Sec. 1786;

5498 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
5499 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
5500 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
5501 the President, Office of Management and Budget;

5502 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
5503 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

5504 (a) not registered in this state; and

5505 (b) (i) not used in this state; or

5506 (ii) used in this state:

5507 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
5508 time period that does not exceed the longer of:

5509 (I) 30 days in any calendar year; or

5510 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
5511 the borders of this state; or

5512 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
5513 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
5514 state;

- 5515 (31) sales of aircraft manufactured in Utah;
- 5516 (32) amounts paid for the purchase of telecommunications service for purposes of
5517 providing telecommunications service;
- 5518 (33) sales, leases, or uses of the following:
- 5519 (a) a vehicle by an authorized carrier; or
- 5520 (b) tangible personal property that is installed on a vehicle:
- 5521 (i) sold or leased to or used by an authorized carrier; and
- 5522 (ii) before the vehicle is placed in service for the first time;
- 5523 (34) (a) 45% of the sales price of any new manufactured home; and
- 5524 (b) 100% of the sales price of any used manufactured home;
- 5525 (35) sales relating to schools and fundraising sales;
- 5526 (36) sales or rentals of durable medical equipment if:
- 5527 (a) a person presents a prescription for the durable medical equipment; and
- 5528 (b) the durable medical equipment is used for home use only;
- 5529 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
5530 Section [72-11-102](#); and
- 5531 (b) the commission shall by rule determine the method for calculating sales exempt
5532 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 5533 (38) sales to a ski resort of:
- 5534 (a) snowmaking equipment;
- 5535 (b) ski slope grooming equipment;
- 5536 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 5537 (d) parts used in the repairs or renovations of equipment or passenger ropeways
5538 described in Subsections (38)(a) through (c);
- 5539 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 5540 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
5541 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
5542 [59-12-102](#);
- 5543 (b) if a seller that sells or rents at the same business location the right to use or operate
5544 for amusement, entertainment, or recreation one or more unassisted amusement devices and
5545 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

5546 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
5547 amusement, entertainment, or recreation for the assisted amusement devices; and

5548 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
5549 Utah Administrative Rulemaking Act, the commission may make rules:

5550 (i) governing the circumstances under which sales are at the same business location;
5551 and

5552 (ii) establishing the procedures and requirements for a seller to separately account for
5553 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
5554 assisted amusement devices;

5555 (41) (a) sales of photocopies by:

5556 (i) a governmental entity; or

5557 (ii) an entity within the state system of public education, including:

5558 (A) a school; or

5559 (B) the State Board of Education; or

5560 (b) sales of publications by a governmental entity;

5561 (42) amounts paid for admission to an athletic event at an institution of higher
5562 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
5563 20 U.S.C. Sec. 1681 et seq.;

5564 (43) (a) sales made to or by:

5565 (i) an area agency on aging; or

5566 (ii) a senior citizen center owned by a county, city, or town; or

5567 (b) sales made by a senior citizen center that contracts with an area agency on aging;

5568 (44) sales or leases of semiconductor fabricating, processing, research, or development
5569 materials regardless of whether the semiconductor fabricating, processing, research, or
5570 development materials:

5571 (a) actually come into contact with a semiconductor; or

5572 (b) ultimately become incorporated into real property;

5573 (45) an amount paid by or charged to a purchaser for accommodations and services
5574 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
5575 59-12-104.2;

5576 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

5577 sports event registration certificate in accordance with Section 41-3-306 for the event period
5578 specified on the temporary sports event registration certificate;

5579 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
5580 adopted by the Public Service Commission only for purchase of electricity produced from a
5581 new alternative energy source built after January 1, 2016, as designated in the tariff by the
5582 Public Service Commission; and

5583 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
5584 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
5585 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
5586 customer would have paid absent the tariff;

5587 (48) sales or rentals of mobility enhancing equipment if a person presents a
5588 prescription for the mobility enhancing equipment;

5589 (49) sales of water in a:

5590 (a) pipe;

5591 (b) conduit;

5592 (c) ditch; or

5593 (d) reservoir;

5594 (50) sales of currency or coins that constitute legal tender of a state, the United States,
5595 or a foreign nation;

5596 (51) (a) sales of an item described in Subsection (51)(b) if the item:

5597 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

5598 (ii) has a gold, silver, or platinum content of 50% or more; and

5599 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

5600 (i) ingot;

5601 (ii) bar;

5602 (iii) medallion; or

5603 (iv) decorative coin;

5604 (52) amounts paid on a sale-leaseback transaction;

5605 (53) sales of a prosthetic device:

5606 (a) for use on or in a human; and

5607 (b) (i) for which a prescription is required; or

5608 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
5609 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
5610 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
5611 or equipment is primarily used in the production or postproduction of the following media for
5612 commercial distribution:

- 5613 (i) a motion picture;
- 5614 (ii) a television program;
- 5615 (iii) a movie made for television;
- 5616 (iv) a music video;
- 5617 (v) a commercial;
- 5618 (vi) a documentary; or
- 5619 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
5620 commission by administrative rule made in accordance with Subsection (54)(d); or

5621 (b) purchases, leases, or rentals of machinery or equipment by an establishment
5622 described in Subsection (54)(c) that is used for the production or postproduction of the
5623 following are subject to the taxes imposed by this chapter:

- 5624 (i) a live musical performance;
- 5625 (ii) a live news program; or
- 5626 (iii) a live sporting event;
- 5627 (c) the following establishments listed in the 1997 North American Industry
5628 Classification System of the federal Executive Office of the President, Office of Management
5629 and Budget, apply to Subsections (54)(a) and (b):

- 5630 (i) NAICS Code 512110; or
- 5631 (ii) NAICS Code 51219; and
- 5632 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5633 commission may by rule:

5634 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

5635 or

- 5636 (ii) define:
 - 5637 (A) "commercial distribution";
 - 5638 (B) "live musical performance";

5639 (C) "live news program"; or
5640 (D) "live sporting event";
5641 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
5642 on or before June 30, 2027, of tangible personal property that:
5643 (i) is leased or purchased for or by a facility that:
5644 (A) is an alternative energy electricity production facility;
5645 (B) is located in the state; and
5646 (C) (I) becomes operational on or after July 1, 2004; or
5647 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5648 2004, as a result of the use of the tangible personal property;
5649 (ii) has an economic life of five or more years; and
5650 (iii) is used to make the facility or the increase in capacity of the facility described in
5651 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
5652 transmission grid including:
5653 (A) a wind turbine;
5654 (B) generating equipment;
5655 (C) a control and monitoring system;
5656 (D) a power line;
5657 (E) substation equipment;
5658 (F) lighting;
5659 (G) fencing;
5660 (H) pipes; or
5661 (I) other equipment used for locating a power line or pole; and
5662 (b) this Subsection (55) does not apply to:
5663 (i) tangible personal property used in construction of:
5664 (A) a new alternative energy electricity production facility; or
5665 (B) the increase in the capacity of an alternative energy electricity production facility;
5666 (ii) contracted services required for construction and routine maintenance activities;
5667 and
5668 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5669 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

5670 acquired after:

5671 (A) the alternative energy electricity production facility described in Subsection

5672 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

5673 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

5674 in Subsection (55)(a)(iii);

5675 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

5676 on or before June 30, 2027, of tangible personal property that:

5677 (i) is leased or purchased for or by a facility that:

5678 (A) is a waste energy production facility;

5679 (B) is located in the state; and

5680 (C) (I) becomes operational on or after July 1, 2004; or

5681 (II) has its generation capacity increased by one or more megawatts on or after July 1,

5682 2004, as a result of the use of the tangible personal property;

5683 (ii) has an economic life of five or more years; and

5684 (iii) is used to make the facility or the increase in capacity of the facility described in

5685 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

5686 transmission grid including:

5687 (A) generating equipment;

5688 (B) a control and monitoring system;

5689 (C) a power line;

5690 (D) substation equipment;

5691 (E) lighting;

5692 (F) fencing;

5693 (G) pipes; or

5694 (H) other equipment used for locating a power line or pole; and

5695 (b) this Subsection (56) does not apply to:

5696 (i) tangible personal property used in construction of:

5697 (A) a new waste energy facility; or

5698 (B) the increase in the capacity of a waste energy facility;

5699 (ii) contracted services required for construction and routine maintenance activities;

5700 and

5701 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5702 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
5703 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
5704 described in Subsection (56)(a)(iii); or
5705 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
5706 in Subsection (56)(a)(iii);
5707 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
5708 or before June 30, 2027, of tangible personal property that:
5709 (i) is leased or purchased for or by a facility that:
5710 (A) is located in the state;
5711 (B) produces fuel from alternative energy, including:
5712 (I) methanol; or
5713 (II) ethanol; and
5714 (C) (I) becomes operational on or after July 1, 2004; or
5715 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
5716 a result of the installation of the tangible personal property;
5717 (ii) has an economic life of five or more years; and
5718 (iii) is installed on the facility described in Subsection (57)(a)(i);
5719 (b) this Subsection (57) does not apply to:
5720 (i) tangible personal property used in construction of:
5721 (A) a new facility described in Subsection (57)(a)(i); or
5722 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
5723 (ii) contracted services required for construction and routine maintenance activities;
5724 and
5725 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5726 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
5727 (A) the facility described in Subsection (57)(a)(i) is operational; or
5728 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
5729 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
5730 product transferred electronically to a person within this state if that tangible personal property
5731 or product transferred electronically is subsequently shipped outside the state and incorporated

- 5732 pursuant to contract into and becomes a part of real property located outside of this state;
- 5733 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 5734 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 5735 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 5736 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 5737 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 5738 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
- 5739 refund:
- 5740 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 5741 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
- 5742 which the sale is made;
- 5743 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
- 5744 sale prior to filing for the refund;
- 5745 (iv) for sales and use taxes paid under this chapter on the sale;
- 5746 (v) in accordance with Section 59-1-1410; and
- 5747 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 5748 the person files for the refund on or before June 30, 2011;
- 5749 (59) purchases:
- 5750 (a) of one or more of the following items in printed or electronic format:
- 5751 (i) a list containing information that includes one or more:
- 5752 (A) names; or
- 5753 (B) addresses; or
- 5754 (ii) a database containing information that includes one or more:
- 5755 (A) names; or
- 5756 (B) addresses; and
- 5757 (b) used to send direct mail;
- 5758 (60) redemptions or repurchases of a product by a person if that product was:
- 5759 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 5760 (b) redeemed or repurchased within the time period established in a written agreement
- 5761 between the person and the pawnbroker for redeeming or repurchasing the product;
- 5762 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

5763 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

5764 and

5765 (ii) has a useful economic life of one or more years; and

5766 (b) the following apply to Subsection (61)(a):

5767 (i) telecommunications enabling or facilitating equipment, machinery, or software;

5768 (ii) telecommunications equipment, machinery, or software required for 911 service;

5769 (iii) telecommunications maintenance or repair equipment, machinery, or software;

5770 (iv) telecommunications switching or routing equipment, machinery, or software; or

5771 (v) telecommunications transmission equipment, machinery, or software;

5772 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible

5773 personal property or a product transferred electronically that are used in the research and

5774 development of alternative energy technology; and

5775 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5776 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

5777 purchases of tangible personal property or a product transferred electronically that are used in

5778 the research and development of alternative energy technology;

5779 (63) (a) purchases of tangible personal property or a product transferred electronically

5780 if:

5781 (i) the tangible personal property or product transferred electronically is:

5782 (A) purchased outside of this state;

5783 (B) brought into this state at any time after the purchase described in Subsection

5784 (63)(a)(i)(A); and

5785 (C) used in conducting business in this state; and

5786 (ii) for:

5787 (A) tangible personal property or a product transferred electronically other than the

5788 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

5789 for a purpose for which the property is designed occurs outside of this state; or

5790 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

5791 outside of this state;

5792 (b) the exemption provided for in Subsection (63)(a) does not apply to:

5793 (i) a lease or rental of tangible personal property or a product transferred electronically;

5794 or

5795 (ii) a sale of a vehicle exempt under Subsection (33); and

5796 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

5797 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

5798 following:

5799 (i) conducting business in this state if that phrase has the same meaning in this

5800 Subsection (63) as in Subsection (24);

5801 (ii) the first use of tangible personal property or a product transferred electronically if

5802 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

5803 (iii) a purpose for which tangible personal property or a product transferred

5804 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

5805 Subsection (24);

5806 (64) sales of disposable home medical equipment or supplies if:

5807 (a) a person presents a prescription for the disposable home medical equipment or

5808 supplies;

5809 (b) the disposable home medical equipment or supplies are used exclusively by the

5810 person to whom the prescription described in Subsection (64)(a) is issued; and

5811 (c) the disposable home medical equipment and supplies are listed as eligible for

5812 payment under:

5813 (i) Title XVIII, federal Social Security Act; or

5814 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

5815 (65) sales:

5816 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

5817 District Act; or

5818 (b) of tangible personal property to a subcontractor of a public transit district, if the

5819 tangible personal property is:

5820 (i) clearly identified; and

5821 (ii) installed or converted to real property owned by the public transit district;

5822 (66) sales of construction materials:

5823 (a) purchased on or after July 1, 2010;

5824 (b) purchased by, on behalf of, or for the benefit of an international airport:

- 5825 (i) located within a county of the first class; and
- 5826 (ii) that has a United States customs office on its premises; and
- 5827 (c) if the construction materials are:
- 5828 (i) clearly identified;
- 5829 (ii) segregated; and
- 5830 (iii) installed or converted to real property:
- 5831 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 5832 (B) located at the international airport described in Subsection (66)(b);
- 5833 (67) sales of construction materials:
- 5834 (a) purchased on or after July 1, 2008;
- 5835 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 5836 (i) located within a county of the second class; and
- 5837 (ii) that is owned or operated by a city in which an airline as defined in Section
- 5838 [59-2-102](#) is headquartered; and
- 5839 (c) if the construction materials are:
- 5840 (i) clearly identified;
- 5841 (ii) segregated; and
- 5842 (iii) installed or converted to real property:
- 5843 (A) owned or operated by the new airport described in Subsection (67)(b);
- 5844 (B) located at the new airport described in Subsection (67)(b); and
- 5845 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 5846 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 5847 (69) purchases and sales described in Section [63H-4-111](#);
- 5848 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 5849 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 5850 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 5851 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 5852 powered aircraft; or
- 5853 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 5854 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 5855 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

5856 lists a state or country other than this state as the location of registry of the fixed wing turbine
5857 powered aircraft;

5858 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
5859 (a) to a person admitted to an institution of higher education; and
5860 (b) by a seller, other than a bookstore owned by an institution of higher education, if
5861 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
5862 textbook for a higher education course;

5863 (72) a license fee or tax a municipality imposes in accordance with Subsection
5864 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
5865 level of municipal services;

5866 (73) amounts paid or charged for construction materials used in the construction of a
5867 new or expanding life science research and development facility in the state, if the construction
5868 materials are:

5869 (a) clearly identified;
5870 (b) segregated; and
5871 (c) installed or converted to real property;

5872 (74) amounts paid or charged for:
5873 (a) a purchase or lease of machinery and equipment that:
5874 (i) are used in performing qualified research:
5875 (A) as defined in Section 41(d), Internal Revenue Code; and
5876 (B) in the state; and
5877 (ii) have an economic life of three or more years; and
5878 (b) normal operating repair or replacement parts:
5879 (i) for the machinery and equipment described in Subsection (74)(a); and
5880 (ii) that have an economic life of three or more years;

5881 (75) a sale or lease of tangible personal property used in the preparation of prepared
5882 food if:
5883 (a) for a sale:
5884 (i) the ownership of the seller and the ownership of the purchaser are identical; and
5885 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
5886 tangible personal property prior to making the sale; or

- 5887 (b) for a lease:
- 5888 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 5889 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 5890 personal property prior to making the lease;
- 5891 (76) (a) purchases of machinery or equipment if:
- 5892 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 5893 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 5894 System of the federal Executive Office of the President, Office of Management and Budget;
- 5895 (ii) the machinery or equipment:
- 5896 (A) has an economic life of three or more years; and
- 5897 (B) is used by one or more persons who pay admission or user fees described in
- 5898 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 5899 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 5900 (A) amounts paid or charged as admission or user fees described in Subsection
- 5901 59-12-103(1)(f); and
- 5902 (B) subject to taxation under this chapter; and
- 5903 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 5904 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 5905 previous calendar quarter is:
- 5906 (i) amounts paid or charged as admission or user fees described in Subsection
- 5907 59-12-103(1)(f); and
- 5908 (ii) subject to taxation under this chapter;
- 5909 (77) purchases of a short-term lodging consumable by a business that provides
- 5910 accommodations and services described in Subsection 59-12-103(1)(i);
- 5911 (78) amounts paid or charged to access a database:
- 5912 (a) if the primary purpose for accessing the database is to view or retrieve information
- 5913 from the database; and
- 5914 (b) not including amounts paid or charged for a:
- 5915 (i) digital audiowork;
- 5916 (ii) digital audio-visual work; or
- 5917 (iii) digital book;

5918 (79) amounts paid or charged for a purchase or lease made by an electronic financial
5919 payment service, of:

5920 (a) machinery and equipment that:

5921 (i) are used in the operation of the electronic financial payment service; and

5922 (ii) have an economic life of three or more years; and

5923 (b) normal operating repair or replacement parts that:

5924 (i) are used in the operation of the electronic financial payment service; and

5925 (ii) have an economic life of three or more years;

5926 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#);

5927 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
5928 product transferred electronically if the tangible personal property or product transferred
5929 electronically:

5930 (a) is stored, used, or consumed in the state; and

5931 (b) is temporarily brought into the state from another state:

5932 (i) during a disaster period as defined in Section [53-2a-1202](#);

5933 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);

5934 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and

5935 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);

5936 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
5937 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
5938 Recreation Program;

5939 (83) amounts paid or charged for a purchase or lease of molten magnesium;

5940 (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise
5941 data center of machinery, equipment, or normal operating repair or replacement parts, if the
5942 machinery, equipment, or normal operating repair or replacement parts:

5943 (a) are used in the operation of the establishment; and

5944 (b) have an economic life of one or more years;

5945 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
5946 vehicle that includes cleaning or washing of the interior of the vehicle;

5947 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5948 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used

5949 or consumed:

5950 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
5951 in Section 63M-4-701 located in the state;

5952 (b) if the machinery, equipment, normal operating repair or replacement parts,
5953 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

5954 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
5955 added to gasoline or diesel fuel;

5956 (ii) research and development;

5957 (iii) transporting, storing, or managing raw materials, work in process, finished
5958 products, and waste materials produced from refining gasoline or diesel fuel, or adding
5959 blendstock to gasoline or diesel fuel;

5960 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
5961 refining; or

5962 (v) preventing, controlling, or reducing pollutants from refining; and

5963 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
5964 of Energy Development under Subsection 63M-4-702(2);

5965 (87) amounts paid to or charged by a proprietor for accommodations and services, as
5966 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
5967 imposed under Section 63H-1-205; and

5968 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
5969 operating repair or replacement parts, or materials, except for office equipment or office
5970 supplies, by an establishment, as the commission defines that term in accordance with Title
5971 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

5972 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
5973 American Industry Classification System of the federal Executive Office of the President,
5974 Office of Management and Budget;

5975 (b) is located in this state; and

5976 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
5977 materials in the operation of the establishment.

5978 Section 86. Section 59-12-205 is amended to read:

5979 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**

5980 **tax revenue -- Determination of population.**

5981 (1) To maintain in effect sales and use tax ordinances adopted pursuant to Section
5982 [59-12-204](#), a county, city, or town shall adopt amendments to the county's, city's, or town's
5983 sales and use tax ordinances:

5984 (a) within 30 days of the day on which the state makes an amendment to an applicable
5985 provision of Part 1, Tax Collection; and

5986 (b) as required to conform to the amendments to Part 1, Tax Collection.

5987 (2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

5988 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
5989 be distributed to each county, city, and town on the basis of the percentage that the population
5990 of the county, city, or town bears to the total population of all counties, cities, and towns in the
5991 state; and

5992 (b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from
5993 the sales and use tax authorized by this part shall be distributed to each county, city, and town
5994 on the basis of the location of the transaction as determined under Sections [59-12-211](#) through
5995 [59-12-215](#); and

5996 (ii) 50% of each dollar collected from the sales and use tax authorized by this part
5997 within a project area described in a project area plan adopted by the military installation
5998 development authority under Title 63H, Chapter 1, Military Installation Development
5999 Authority Act, shall be distributed to the military installation development authority created in
6000 Section [63H-1-201](#).

6001 (3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall
6002 distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

6003 (i) the county, city, or town is a:

6004 (A) county of the third, fourth, fifth, or sixth class;

6005 (B) city of the fifth class; or

6006 (C) town;

6007 (ii) the county, city, or town received a distribution under this section for the calendar
6008 year beginning on January 1, 2008, that was less than the distribution under this section that the
6009 county, city, or town received for the calendar year beginning on January 1, 2007;

6010 (iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located

6011 within the unincorporated area of the county for one or more days during the calendar year
6012 beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121,
6013 Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North
6014 American Industry Classification System of the federal Executive Office of the President,
6015 Office of Management and Budget; or

6016 (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection
6017 (3)(a)(i)(C), the city or town had located within the city or town for one or more days during
6018 the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry
6019 Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the
6020 2002 North American Industry Classification System of the federal Executive Office of the
6021 President, Office of Management and Budget; and

6022 (iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment
6023 described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for
6024 one or more days during the calendar year beginning on January 1, 2008, was not the holder of
6025 a direct payment permit under Section [59-12-107.1](#); or

6026 (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection
6027 (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a
6028 city or town for one or more days during the calendar year beginning on January 1, 2008, was
6029 not the holder of a direct payment permit under Section [59-12-107.1](#).

6030 (b) The commission shall make the distribution required by this Subsection (3) to a
6031 county, city, or town described in Subsection (3)(a):

6032 (i) from the distribution required by Subsection (2)(a); and

6033 (ii) before making any other distribution required by this section.

6034 (c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by
6035 multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

6036 (ii) For purposes of Subsection (3)(c)(i):

6037 (A) the numerator of the fraction is the difference calculated by subtracting the
6038 distribution a county, city, or town described in Subsection (3)(a) received under this section
6039 for the calendar year beginning on January 1, 2008, from the distribution under this section that
6040 the county, city, or town received for the calendar year beginning on January 1, 2007; and

6041 (B) the denominator of the fraction is \$333,583.

6042 (d) A distribution required by this Subsection (3) is in addition to any other distribution
6043 required by this section.

6044 (4) (a) As used in this Subsection (4):

6045 (i) "Eligible county, city, or town" means a county, city, or town that:

6046 (A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b)
6047 equal to the amount described in Subsection (4)(b)(ii); and

6048 (B) does not impose a sales and use tax under Section [59-12-2103](#) on or before July 1,
6049 2016.

6050 (ii) "Minimum tax revenue distribution" means the total amount of tax revenue
6051 distributions an eligible county, city, or town received from a tax imposed in accordance with
6052 this part for fiscal year 2004-05.

6053 (b) An eligible county, city, or town shall receive a tax revenue distribution for a tax
6054 imposed in accordance with this part equal to the greater of:

6055 (i) the payment required by Subsection (2); or

6056 (ii) the minimum tax revenue distribution.

6057 (5) (a) For purposes of this Subsection (5):

6058 (i) "Annual local contribution" means the lesser of \$200,000 or an amount equal to
6059 1.8% of the participating local government's tax revenue distribution amount under Subsection
6060 (2)(a) for the previous fiscal year.

6061 (ii) "Participating local government" means a county or municipality, as defined in
6062 Section [10-1-104](#), that is not an eligible municipality or grant eligible entity certified in
6063 accordance with Section [35A-8-609](#).

6064 (b) For revenue collected from the tax authorized by this part that is distributed on or
6065 after January 1, 2019, the commission, before making a tax revenue distribution under
6066 Subsection (2)(a) to a participating local government, shall:

6067 (i) subtract one-twelfth of the annual local contribution for each participating local
6068 government from the participating local government's tax revenue distribution under
6069 Subsection (2)(a); and

6070 (ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter
6071 Cities Mitigation Restricted Account created in Section ~~[\[35A-8a-606\]](#)~~ [35A-8-606](#).

6072 (c) The commission shall make the calculation and distribution described in this

6073 Subsection (5) after making the distributions described in Subsections (3) and (4).

6074 (6) (a) Population figures for purposes of this section shall be based on the most recent
6075 official census or census estimate of the United States Bureau of the Census.

6076 (b) If a needed population estimate is not available from the United States Bureau of
6077 the Census, population figures shall be derived from the estimate from the Utah Population
6078 Committee.

6079 (c) The population of a county for purposes of this section shall be determined only
6080 from the unincorporated area of the county.

6081 Section 87. Section **59-13-402** is amended to read:

6082 **59-13-402. Revenue from taxes deposited with treasurer -- Credit to Aeronautics**
6083 **Restricted Account -- Purposes for which funds may be used -- Allocation of funds --**
6084 **Reports -- Returns required.**

6085 (1) (a) All revenue received by the commission under this part shall be deposited daily
6086 with the state treasurer who shall credit all of the revenue collected to the Transportation Fund.

6087 (b) An appropriation from the Transportation Fund shall be made to the commission to
6088 cover expenses incurred in the administration and enforcement of this part and the collection of
6089 the aviation fuel tax.

6090 (c) Refunds to which taxpayers are entitled under this part shall be paid from the
6091 Transportation Fund.

6092 (2) The state treasurer shall place an amount equal to the total amount received from
6093 the sale or use of aviation fuel in the Aeronautics Restricted Account created by Section
6094 [72-2-126](#).

6095 (3) The tax imposed on each gallon of aviation fuel under Section [59-13-401](#) shall be
6096 allocated to the airport where the aviation fuel was sold and to aeronautical operations of the
6097 Department of Transportation as follows:

6098

Total	Allocation to	Allocation to
Tax	Airport	Aeronautical
Allocated		Operations

6099 (a) Tax on Each Gallon of Aviation \$.04 \$.03 \$.01
 Fuel Purchased for Use by a Federally
 Certificated Air Carrier Other than at
 an International Airport Located Within a
 County of the First Class that has a United
 States Customs Office on its Premises

6100 (b) Tax on Each Gallon of Aviation \$.025 \$.015 \$.01
 Fuel Purchased for Use by a Federally
 Certificated Air Carrier at an International
 Airport Located Within a County of the
 First Class that has a United States Customs
 Office on its Premises

6101 (c) Tax on Each Gallon of Aviation
 Fuel Purchased for Use by a Person Other
 than a Federally Certificated Air Carrier
 at an International Airport Located Within a
 County of the First Class that has a United
 States Customs Office on its Premises \$.09 \$.00 \$.09

6102 (d) Tax on Each Gallon of Aviation
 Fuel Purchased for Use by a Person Other
 than a Federally Certificated Air Carrier
 Other than at an International Airport
 Located Within a County of the First
 Class that has a United States Customs
 Office on its Premises \$.09 \$.03 \$.06

6103 (e) The allocation to the publicly used airport may be used at the discretion of the
 6104 airport's governing authority for the:

6105 (i) construction, improvements, operation, and maintenance of publicly used airports in
 6106 the state; and

6107 (ii) payment of principal and interest on indebtedness incurred for the purposes

6108 described in Subsection (3)(e)(i).

6109 (f) Upon appropriation by the Legislature, the allocation to aeronautical operations of
6110 the Department of Transportation shall be used as provided in the Aeronautics Restricted
6111 Account created by Section 72-2-126.

6112 (4) (a) The commission shall require reports and returns from distributors, retail
6113 dealers, and users in order to enable the commission and the Department of Transportation to
6114 allocate the revenue to be credited to:

6115 (i) the Aeronautics Restricted Account created by Section 72-2-126; and

6116 (ii) the separate accounts of individual airports.

6117 (b) (i) Except as provided by Subsection (4)(b)(ii), any unexpended amount remaining
6118 in the account of any publicly used airport on the first day of January, April, July, and October
6119 shall be paid to the authority operating the airport.

6120 (ii) Aviation fuel tax allocated to any airport owned and operated by a city of the first
6121 class shall be paid to the city treasurer on the first day of each month.

6122 (c) The state treasurer shall place aviation fuel tax collected on fuel sold at places other
6123 than publicly used airports in the Aeronautics Restricted Account created by Section 72-2-126.

6124 Section 88. Section 59-13-403 is amended to read:

6125 **59-13-403. Administration and penalties -- Bond requirements.**

6126 (1) All administrative and penalty provisions of Part 2, Motor Fuel, apply to the
6127 administration of Part 4, Aviation Fuel.

6128 (2) Notwithstanding Subsection (1), a distributor is not required to furnish a bond if the
6129 distributor:

6130 (a) meets the definition of distributor under Subsection 59-13-102[~~(5)~~](7)(d); and

6131 (b) has an average tax liability of \$500 or less per month.

6132 Section 89. Section 59-14-802 is amended to read:

6133 **59-14-802. Definitions.**

6134 As used in this part:

6135 (1) "Cigarette" means the same as that term is defined in Section 59-14-102.

6136 (2) (a) "Electronic cigarette" means:

6137 (i) an electronic device used to deliver or capable of delivering vapor containing
6138 nicotine to an individual's respiratory system;

6139 (ii) a component of the device described in Subsection (2)(a)(i); or
6140 (iii) an accessory sold in the same package as the device described in Subsection
6141 (2)(a)(i).

6142 (b) "Electronic cigarette" includes an e-cigarette as defined in Section 26-38-2.

6143 (3) "Electronic cigarette product" means an electronic cigarette or an electronic
6144 cigarette substance.

6145 (4) "Electronic cigarette substance" means any substance, including liquid containing
6146 nicotine, used or intended for use in an electronic cigarette.

6147 ~~[(5) "Enforcing agency" means the Department of Health, a county health department,~~
6148 ~~or a local health department, when enforcing.]~~

6149 ~~[(a) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underage Persons; or]~~

6150 ~~[(b) Title 26, Chapter 57, Electronic Cigarette Regulation Act.]~~

6151 ~~[(6)]~~ (5) "Licensee" means a person that holds a valid license to sell electronic cigarette
6152 products.

6153 ~~[(7)]~~ (6) "License to sell an electronic cigarette product" means a license issued by the
6154 commission under Subsection 59-14-803(3).

6155 Section 90. Section 61-1-11 is amended to read:

6156 **61-1-11. Provisions applicable to registration generally.**

6157 (1) A registration statement may be filed by the issuer, another person on whose behalf
6158 the offering is to be made, or a licensed broker-dealer.

6159 (2) A person filing a registration statement shall pay a filing fee as determined under
6160 Section 61-1-18.4.

6161 (3) A registration statement shall specify:

6162 (a) the amount of securities to be offered in this state;

6163 (b) the states in which a registration statement or similar document in connection with
6164 the offering is or is to be filed; and

6165 (c) an adverse order, judgment, or decree entered in connection with the offering by the
6166 regulatory authorities in each state or by a court or the Securities and Exchange Commission.

6167 (4) A document filed under this chapter or a predecessor act within five years
6168 preceding the filing of a registration statement may be incorporated by reference in the
6169 registration statement to the extent that the document is currently accurate.

6170 (5) The division may permit the omission of an item of information or document from
6171 a registration statement.

6172 (6) In the case of a nonissuer distribution, information may not be required under
6173 Subsection (9) or Section 61-1-10 unless it is known to the person filing the registration
6174 statement or to the persons on whose behalf the distribution is to be made, or can be furnished
6175 by them without unreasonable effort or expense.

6176 (7) (a) The division may require as a condition of registration by qualification or
6177 coordination:

6178 (i) that security issued within the past three years or to be issued to a promoter for a
6179 consideration substantially different from the public offering price, or to a person for a
6180 consideration other than cash, be deposited in escrow; and

6181 (ii) that the proceeds from the sale of the registered security be impounded until the
6182 issuer receives a specified amount from the sale of the security either in this state or elsewhere.

6183 (b) The division may determine the conditions of an escrow or impounding required by
6184 this Subsection (7), but it may not reject a depository solely because of location in another
6185 state.

6186 (8) (a) A registration statement is effective for one year from its effective date.

6187 (b) All outstanding securities of the same class as a registered security are considered
6188 to be registered for the purpose of a nonissuer transaction:

6189 (i) so long as the registration statement is effective; and

6190 (ii) between the 30th day after the entry of a stop order suspending or revoking the
6191 effectiveness of the registration statement under Section 61-1-12, if the registration statement
6192 did not relate in whole or in part to a nonissuer distribution, and one year from the effective
6193 date of the registration statement.

6194 (c) A registration statement may not be withdrawn for one year from its effective date
6195 if a security of the same class is outstanding.

6196 (d) A registration statement may be withdrawn otherwise only in the discretion of the
6197 division.

6198 (9) So long as a registration statement is effective and the offering is not completely
6199 sold, the division may require the person who filed the registration statement to file reports, not
6200 more often than quarterly, to keep reasonably current the information contained in the

6201 registration statement and to disclose the progress of the offering.

6202 (10) (a) A registration statement may be amended after its effective date so as to
6203 increase the securities specified to be offered and sold, if the public offering price and
6204 underwriters' discounts and commissions are not changed from the respective amounts of
6205 which the division was informed.

6206 (b) The amendment becomes effective when the division so orders.

6207 (c) A person filing an amendment shall pay a registration fee as determined under
6208 Section 61-1-18.4 with respect to the additional securities proposed to be offered.

6209 (d) The amendment relates back to the date of the sale of the additional security being
6210 registered, provided that within six months of the date of the sale the amendment is filed and
6211 the additional registration fee is paid.

6212 (11) (a) A security that is [~~offered or sold under Section 4(5) of the Securities Act of~~
6213 ~~1933 or that is~~] a "mortgage related security" as defined in Section 3(a)(41) of the Securities
6214 Exchange Act of 1934 may not be exempt under Subsection 61-1-14(1)(a) to the same extent as
6215 an obligation issued by or guaranteed as to principal and interest by the United States or an
6216 agency or instrumentality of the United States. Accordingly, any such security shall comply
6217 with the applicable registration and qualification requirements set forth in this chapter.

6218 (b) This Subsection (11) specifically overrides the preemption of state law contained in
6219 Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, Public Law
6220 Number 98-440.

6221 Section 91. Section 62A-2-101 is amended to read:

6222 **62A-2-101. Definitions.**

6223 As used in this chapter:

6224 (1) "Adult day care" means nonresidential care and supervision:

6225 (a) for three or more adults for at least four but less than 24 hours a day; and

6226 (b) that meets the needs of functionally impaired adults through a comprehensive
6227 program that provides a variety of health, social, recreational, and related support services in a
6228 protective setting.

6229 (2) "Applicant" means a person who applies for an initial license or a license renewal
6230 under this chapter.

6231 (3) (a) "Associated with the licensee" means that an individual is:

- 6232 (i) affiliated with a licensee as an owner, director, member of the governing body,
6233 employee, agent, provider of care, department contractor, or volunteer; or
- 6234 (ii) applying to become affiliated with a licensee in a capacity described in Subsection
6235 (3)(a)(i).
- 6236 (b) "Associated with the licensee" does not include:
- 6237 (i) service on the following bodies, unless that service includes direct access to a child
6238 or a vulnerable adult:
- 6239 (A) a local mental health authority described in Section 17-43-301;
- 6240 (B) a local substance abuse authority described in Section 17-43-201; or
- 6241 (C) a board of an organization operating under a contract to provide mental health or
6242 substance abuse programs, or services for the local mental health authority or substance abuse
6243 authority; or
- 6244 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised
6245 at all times.
- 6246 (4) (a) "Boarding school" means a private school that:
- 6247 (i) uses a regionally accredited education program;
- 6248 (ii) provides a residence to the school's students:
- 6249 (A) for the purpose of enabling the school's students to attend classes at the school; and
- 6250 (B) as an ancillary service to educating the students at the school;
- 6251 (iii) has the primary purpose of providing the school's students with an education, as
6252 defined in Subsection (4)(b)(i); and
- 6253 (iv) (A) does not provide the treatment or services described in Subsection (33)(a); or
6254 (B) provides the treatment or services described in Subsection (33)(a) on a limited
6255 basis, as described in Subsection (4)(b)(ii).
- 6256 (b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for
6257 one or more of grades kindergarten through 12th grade.
- 6258 (ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or
6259 services described in Subsection (33)(a) on a limited basis if:
- 6260 (A) the treatment or services described in Subsection (33)(a) are provided only as an
6261 incidental service to a student; and
- 6262 (B) the school does not:

6263 (I) specifically solicit a student for the purpose of providing the treatment or services
6264 described in Subsection (33)(a); or

6265 (II) have a primary purpose of providing the treatment or services described in
6266 Subsection (33)(a).

6267 (c) "Boarding school" does not include a therapeutic school.

6268 (5) "Child" means a person under 18 years of age.

6269 (6) "Child placing" means receiving, accepting, or providing custody or care for any
6270 child, temporarily or permanently, for the purpose of:

6271 (a) finding a person to adopt the child;

6272 (b) placing the child in a home for adoption; or

6273 (c) foster home placement.

6274 (7) "Child-placing agency" means a person that engages in child placing.

6275 (8) "Client" means an individual who receives or has received services from a licensee.

6276 (9) "Day treatment" means specialized treatment that is provided to:

6277 (a) a client less than 24 hours a day; and

6278 (b) four or more persons who:

6279 (i) are unrelated to the owner or provider; and

6280 (ii) have emotional, psychological, developmental, physical, or behavioral
6281 dysfunctions, impairments, or chemical dependencies.

6282 (10) "Department" means the Department of Human Services.

6283 (11) "Department contractor" means an individual who:

6284 (a) provides services under a contract with the department; and

6285 (b) due to the contract with the department, has or will likely have direct access to a
6286 child or vulnerable adult.

6287 (12) "Direct access" means that an individual has, or likely will have:

6288 (a) contact with or access to a child or vulnerable adult that provides the individual
6289 with an opportunity for personal communication or touch; or

6290 (b) an opportunity to view medical, financial, or other confidential personal identifying
6291 information of the child, the child's parents or legal guardians, or the vulnerable adult.

6292 (13) "Directly supervised" means that an individual is being supervised under the
6293 uninterrupted visual and auditory surveillance of another individual who has a current

- 6294 background screening approval issued by the office.
- 6295 (14) "Director" means the director of the Office of Licensing.
- 6296 (15) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).
- 6297 (16) "Domestic violence treatment program" means a nonresidential program designed
6298 to provide psychological treatment and educational services to perpetrators and victims of
6299 domestic violence.
- 6300 (17) "Elder adult" means a person 65 years of age or older.
- 6301 (18) "Executive director" means the executive director of the department.
- 6302 (19) "Foster home" means a residence that is licensed or certified by the Office of
6303 Licensing for the full-time substitute care of a child.
- 6304 (20) (a) "Health benefit plan" means the same as that term is defined in Section
6305 ~~[31A-22-619.6]~~ [31A-1-301](#).
- 6306 (b) "Health benefit plan" includes:
- 6307 (i) a health maintenance organization;
- 6308 (ii) a third party administrator that offers, sells, manages, or administers a health
6309 benefit plan; and
- 6310 (iii) the Public Employees' Benefit and Insurance Program created in Section
6311 [49-20-103](#).
- 6312 (c) "Health benefit plan" does not include a health benefit plan offered by an insurer
6313 that has a market share in the state's fully insured market that is less than 2%, as determined in
6314 the annual Market Share Report published by the Insurance Department.
- 6315 (21) "Health care provider" means the same as that term is defined in Section
6316 [78B-3-403](#).
- 6317 (22) "Health insurer" means the same as that term is defined in Section [31A-22-615.5](#).
- 6318 (23) (a) "Human services program" means a:
- 6319 (i) foster home;
- 6320 (ii) therapeutic school;
- 6321 (iii) youth program;
- 6322 (iv) resource family home;
- 6323 (v) recovery residence; or
- 6324 (vi) facility or program that provides:

- 6325 (A) secure treatment;
- 6326 (B) inpatient treatment;
- 6327 (C) residential treatment;
- 6328 (D) residential support;
- 6329 (E) adult day care;
- 6330 (F) day treatment;
- 6331 (G) outpatient treatment;
- 6332 (H) domestic violence treatment;
- 6333 (I) child-placing services;
- 6334 (J) social detoxification; or
- 6335 (K) any other human services that are required by contract with the department to be
- 6336 licensed with the department.
- 6337 (b) "Human services program" does not include:
- 6338 (i) a boarding school; or
- 6339 (ii) a residential, vocational and life skills program, as defined in Section [13-53-102](#).
- 6340 (24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 6341 (25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
- 6342 (26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 6343 (27) "Licensee" means an individual or a human services program licensed by the
- 6344 office.
- 6345 (28) "Local government" means a city, town, metro township, or county.
- 6346 (29) "Minor" has the same meaning as "child."
- 6347 (30) "Office" means the Office of Licensing within the Department of Human Services.
- 6348 (31) "Outpatient treatment" means individual, family, or group therapy or counseling
- 6349 designed to improve and enhance social or psychological functioning for those whose physical
- 6350 and emotional status allows them to continue functioning in their usual living environment.
- 6351 (32) "Practice group" or "group practice" means two or more health care providers
- 6352 legally organized as a partnership, professional corporation, or similar association, for which:
- 6353 (a) substantially all of the services of the health care providers who are members of the
- 6354 group are provided through the group and are billed in the name of the group and amounts
- 6355 received are treated as receipts of the group; and

6356 (b) the overhead expenses of and the income from the practice are distributed in
6357 accordance with methods previously determined by members of the group.

6358 (33) (a) "Recovery residence" means a home, residence, or facility that meets at least
6359 two of the following requirements:

6360 (i) provides a supervised living environment for individuals recovering from a
6361 substance use disorder;

6362 (ii) provides a living environment in which more than half of the individuals in the
6363 residence are recovering from a substance use disorder;

6364 (iii) provides or arranges for residents to receive services related to their recovery from
6365 a substance use disorder, either on or off site;

6366 (iv) is held out as a living environment in which individuals recovering from substance
6367 abuse disorders live together to encourage continued sobriety; or

6368 (v) (A) receives public funding; or

6369 (B) is run as a business venture, either for-profit or not-for-profit.

6370 (b) "Recovery residence" does not mean:

6371 (i) a residential treatment program;

6372 (ii) residential support; or

6373 (iii) a home, residence, or facility, in which:

6374 (A) residents, by their majority vote, establish, implement, and enforce policies

6375 governing the living environment, including the manner in which applications for residence are
6376 approved and the manner in which residents are expelled;

6377 (B) residents equitably share rent and housing-related expenses; and

6378 (C) a landlord, owner, or operator does not receive compensation, other than fair
6379 market rental income, for establishing, implementing, or enforcing policies governing the
6380 living environment.

6381 (34) "Regular business hours" means:

6382 (a) the hours during which services of any kind are provided to a client; or

6383 (b) the hours during which a client is present at the facility of a licensee.

6384 (35) (a) "Residential support" means arranging for or providing the necessities of life
6385 as a protective service to individuals or families who have a disability or who are experiencing
6386 a dislocation or emergency that prevents them from providing these services for themselves or

6387 their families.

6388 (b) "Residential support" includes providing a supervised living environment for
6389 persons with dysfunctions or impairments that are:

6390 (i) emotional;

6391 (ii) psychological;

6392 (iii) developmental; or

6393 (iv) behavioral.

6394 (c) Treatment is not a necessary component of residential support.

6395 (d) "Residential support" does not include:

6396 (i) a recovery residence; or

6397 (ii) residential services that are performed:

6398 (A) exclusively under contract with the Division of Services for People with
6399 Disabilities; or

6400 (B) in a facility that serves fewer than four individuals.

6401 (36) (a) "Residential treatment" means a 24-hour group living environment for four or
6402 more individuals unrelated to the owner or provider that offers room or board and specialized
6403 treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation
6404 services for persons with emotional, psychological, developmental, or behavioral dysfunctions,
6405 impairments, or chemical dependencies.

6406 (b) "Residential treatment" does not include a:

6407 (i) boarding school;

6408 (ii) foster home; or

6409 (iii) recovery residence.

6410 (37) "Residential treatment program" means a human services program that provides:

6411 (a) residential treatment; or

6412 (b) secure treatment.

6413 (38) (a) "Secure treatment" means 24-hour specialized residential treatment or care for
6414 persons whose current functioning is such that they cannot live independently or in a less
6415 restrictive environment.

6416 (b) "Secure treatment" differs from residential treatment to the extent that it requires
6417 intensive supervision, locked doors, and other security measures that are imposed on residents

6418 with neither their consent nor control.

6419 (39) "Social detoxification" means short-term residential services for persons who are
6420 experiencing or have recently experienced drug or alcohol intoxication, that are provided
6421 outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility
6422 Licensing and Inspection Act, and that include:

6423 (a) room and board for persons who are unrelated to the owner or manager of the
6424 facility;

6425 (b) specialized rehabilitation to acquire sobriety; and

6426 (c) aftercare services.

6427 (40) "Substance abuse disorder" or "substance use disorder" mean the same as
6428 "substance use disorder" is defined in Section [62A-15-1202](#).

6429 (41) "Substance abuse treatment program" or "substance use disorder treatment
6430 program" means a program:

6431 (a) designed to provide:

6432 (i) specialized drug or alcohol treatment;

6433 (ii) rehabilitation; or

6434 (iii) habilitation services; and

6435 (b) that provides the treatment or services described in Subsection (40)(a) to persons

6436 with:

6437 (i) a diagnosed substance use disorder; or

6438 (ii) chemical dependency disorder.

6439 (42) "Therapeutic school" means a residential group living facility:

6440 (a) for four or more individuals that are not related to:

6441 (i) the owner of the facility; or

6442 (ii) the primary service provider of the facility;

6443 (b) that serves students who have a history of failing to function:

6444 (i) at home;

6445 (ii) in a public school; or

6446 (iii) in a nonresidential private school; and

6447 (c) that offers:

6448 (i) room and board; and

- 6449 (ii) an academic education integrated with:
- 6450 (A) specialized structure and supervision; or
- 6451 (B) services or treatment related to:
- 6452 (I) a disability;
- 6453 (II) emotional development;
- 6454 (III) behavioral development;
- 6455 (IV) familial development; or
- 6456 (V) social development.
- 6457 (43) "Unrelated persons" means persons other than parents, legal guardians,
- 6458 grandparents, brothers, sisters, uncles, or aunts.
- 6459 (44) "Vulnerable adult" means an elder adult or an adult who has a temporary or
- 6460 permanent mental or physical impairment that substantially affects the person's ability to:
- 6461 (a) provide personal protection;
- 6462 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 6463 (c) obtain services necessary for health, safety, or welfare;
- 6464 (d) carry out the activities of daily living;
- 6465 (e) manage the adult's own resources; or
- 6466 (f) comprehend the nature and consequences of remaining in a situation of abuse,
- 6467 neglect, or exploitation.
- 6468 (45) (a) "Youth program" means a nonresidential program designed to provide
- 6469 behavioral, substance abuse, or mental health services to minors that:
- 6470 (i) serves adjudicated or nonadjudicated youth;
- 6471 (ii) charges a fee for its services;
- 6472 (iii) may or may not provide host homes or other arrangements for overnight
- 6473 accommodation of the youth;
- 6474 (iv) may or may not provide all or part of its services in the outdoors;
- 6475 (v) may or may not limit or censor access to parents or guardians; and
- 6476 (vi) prohibits or restricts a minor's ability to leave the program at any time of the
- 6477 minor's own free will.
- 6478 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
- 6479 Scouts, 4-H, and other such organizations.

6480 Section 92. Section **62A-4a-201** is amended to read:

6481 **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of**
6482 **state.**

6483 (1) (a) Under both the United States Constitution and the constitution of this state, a
6484 parent possesses a fundamental liberty interest in the care, custody, and management of the
6485 parent's children. A fundamentally fair process must be provided to parents if the state moves
6486 to challenge or interfere with parental rights. A governmental entity must support any actions
6487 or allegations made in opposition to the rights and desires of a parent regarding the parent's
6488 children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened
6489 protection against government interference with the parent's fundamental rights and liberty
6490 interests and, concomitantly, the right of the child to be reared by the child's natural parent.

6491 (b) The fundamental liberty interest of a parent concerning the care, custody, and
6492 management of the parent's children is recognized, protected, and does not cease to exist
6493 simply because a parent may fail to be a model parent or because the parent's child is placed in
6494 the temporary custody of the state. At all times, a parent retains a vital interest in preventing
6495 the irretrievable destruction of family life. Prior to an adjudication of unfitness, government
6496 action in relation to parents and their children may not exceed the least restrictive means or
6497 alternatives available to accomplish a compelling state interest. Until the state proves parental
6498 unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result,
6499 the child and the child's parents share a vital interest in preventing erroneous termination of
6500 their natural relationship and the state cannot presume that a child and the child's parents are
6501 adversaries.

6502 (c) It is in the best interest and welfare of a child to be raised under the care and
6503 supervision of the child's natural parents. A child's need for a normal family life in a
6504 permanent home, and for positive, nurturing family relationships is usually best met by the
6505 child's natural parents. Additionally, the integrity of the family unit and the right of parents to
6506 conceive and raise their children are constitutionally protected. The right of a fit, competent
6507 parent to raise the parent's child without undue government interference is a fundamental
6508 liberty interest that has long been protected by the laws and Constitution and is a fundamental
6509 public policy of this state.

6510 (d) The state recognizes that:

6511 (i) a parent has the right, obligation, responsibility, and authority to raise, manage,
6512 train, educate, provide and care for, and reasonably discipline the parent's children; and

6513 (ii) the state's role is secondary and supportive to the primary role of a parent.

6514 (e) It is the public policy of this state that parents retain the fundamental right and duty
6515 to exercise primary control over the care, supervision, upbringing, and education of their
6516 children.

6517 (f) Subsections (2) through (7) shall be interpreted and applied consistent with this
6518 Subsection (1).

6519 (2) It is also the public policy of this state that children have the right to protection
6520 from abuse and neglect, and that the state retains a compelling interest in investigating,
6521 prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title 78A,
6522 Chapter 6, Juvenile Court Act. Therefore, the state, as *parens patriae*, has an interest in and
6523 responsibility to protect children whose parents abuse them or do not adequately provide for
6524 their welfare. There may be circumstances where a parent's conduct or condition is a
6525 substantial departure from the norm and the parent is unable or unwilling to render safe and
6526 proper parental care and protection. Under those circumstances, the state may take action for
6527 the welfare and protection of the parent's children.

6528 (3) When the division intervenes on behalf of an abused, neglected, or dependent child,
6529 it shall take into account the child's need for protection from immediate harm and the extent to
6530 which the child's extended family may provide needed protection. Throughout its involvement,
6531 the division shall utilize the least intrusive and least restrictive means available to protect a
6532 child, in an effort to ensure that children are brought up in stable, permanent families, rather
6533 than in temporary foster placements under the supervision of the state.

6534 (4) When circumstances within the family pose a threat to the child's immediate safety
6535 or welfare, the division may seek custody of the child for a planned, temporary period and
6536 place the child in a safe environment, subject to the requirements of this section and in
6537 accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
6538 Dependency Proceedings, and:

6539 (a) when safe and appropriate, return the child to the child's parent; or

6540 (b) as a last resort, pursue another permanency plan.

6541 (5) In determining and making "reasonable efforts" with regard to a child, pursuant to

6542 the provisions of Section 62A-4a-203, both the division's and the court's paramount concern
6543 shall be the child's health, safety, and welfare. The desires of a parent for the parent's child,
6544 and the constitutionally protected rights of a parent, as described in this section, shall be given
6545 full and serious consideration by the division and the court.

6546 (6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
6547 abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or
6548 to, in any other way, attempt to maintain a child in the child's home, provide reunification
6549 services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does
6550 not exempt the division from providing court-ordered services.

6551 (7) (a) In accordance with Subsection (1), the division shall strive to achieve
6552 appropriate permanency for children who are abused, neglected, or dependent. The division
6553 shall provide in-home services, where appropriate and safe, in an effort to help a parent to
6554 correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The
6555 division may pursue a foster placement only if in-home services fail or are otherwise
6556 insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services
6557 and kinship placement fail and cannot be corrected. The division shall also seek qualified
6558 extended family support or a kinship placement to maintain a sense of security and stability for
6559 the child.

6560 (b) If the use or continuation of "reasonable efforts," as described in Subsections (5)
6561 and (6), is determined to be inconsistent with the permanency plan for a child, then measures
6562 shall be taken, in a timely manner, to place the child in accordance with the permanency plan,
6563 and to complete whatever steps are necessary to finalize the permanent placement of the child.

6564 (c) Subject to the parental rights recognized and protected under this section, if,
6565 because of a parent's conduct or condition, the parent is determined to be unfit or incompetent
6566 based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part
6567 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of
6568 paramount importance, and shall be protected in determining whether that parent's rights
6569 should be terminated.

6570 (8) The state's right to direct or intervene in the provision of medical or mental health
6571 care for a child is subject to Subsections 78A-6-105[(35)(d)](36)(b)(i) through (iii) and
6572 78A-6-117(2) and Section 78A-6-301.5.

6573 Section 93. Section **62A-15-1101** is amended to read:

6574 **62A-15-1101. Suicide prevention -- Reporting requirements.**

6575 (1) The division shall appoint a state suicide prevention coordinator to administer a
6576 state suicide prevention program composed of suicide prevention, intervention, and postvention
6577 programs, services, and efforts.

6578 (2) The coordinator shall:

6579 (a) establish a Statewide Suicide Prevention Coalition with membership from public
6580 and private organizations and Utah citizens; and

6581 (b) appoint a chair and co-chair from among the membership of the coalition to lead
6582 the coalition.

6583 (3) The state suicide prevention program may include the following components:

6584 (a) delivery of resources, tools, and training to community-based coalitions;

6585 (b) evidence-based suicide risk assessment tools and training;

6586 (c) town hall meetings for building community-based suicide prevention strategies;

6587 (d) suicide prevention gatekeeper training;

6588 (e) training to identify warning signs and to manage an at-risk individual's crisis;

6589 (f) evidence-based intervention training;

6590 (g) intervention skills training; and

6591 (h) postvention training.

6592 (4) The coordinator shall coordinate with the following to gather statistics, among
6593 other duties:

6594 (a) local mental health and substance abuse authorities;

6595 (b) the State Board of Education, including the public education suicide prevention
6596 coordinator described in Section [53G-9-702](#);

6597 (c) the Department of Health;

6598 (d) health care providers, including emergency rooms;

6599 (e) federal agencies, including the Federal Bureau of Investigation;

6600 (f) other unbiased sources; and

6601 (g) other public health suicide prevention efforts.

6602 (5) The coordinator shall provide a written report to the Health and Human Services
6603 Interim Committee, at or before the October meeting every year, on:

6604 (a) implementation of the state suicide prevention program, as described in Subsections
6605 (1) and (3);

6606 (b) data measuring the effectiveness of each component of the state suicide prevention
6607 program;

6608 (c) funds appropriated for each component of the state suicide prevention program; and

6609 (d) five-year trends of suicides in Utah, including subgroups of youths and adults and
6610 other subgroups identified by the state suicide prevention coordinator.

6611 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6612 division shall make rules:

6613 (a) governing the implementation of the state suicide prevention program, consistent
6614 with this section; and

6615 (b) in conjunction with the bureau, defining the criteria for employers to apply for
6616 grants under the Suicide Prevention Education Program in Section 53-10-202.3, which shall
6617 include~~[(i)]~~ attendance at a suicide prevention education course~~[, and]~~.

6618 ~~[(ii) display of posters and distribution of the firearm safety brochures or packets
6619 created in Subsection 53-10-202(18)(a)(iii), but does not require the distribution of a
6620 cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable
6621 safety mechanism.]~~

6622 (7) As funding by the Legislature allows, the coordinator shall award grants, not to
6623 exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the
6624 needs of children who have been served by the Division of Juvenile Justice Services.

6625 (8) The coordinator and the coalition shall submit to the advisory council, no later than
6626 October 1 each year, a written report detailing the previous fiscal year's activities to fund,
6627 implement, and evaluate suicide prevention activities described in this section.

6628 Section 94. Section 63A-14-405 is amended to read:

6629 **63A-14-405. Motion to disqualify commission member for conflict of interest.**

6630 (1) A complainant may file a motion to disqualify one or more members of the
6631 commission from participating in proceedings relating to the complaint if the individual files
6632 the motion within 20 days after the later of:

6633 (a) the day on which the individual files the ethics complaint; or

6634 (b) the day on which the individual knew or should have known of the grounds upon

6635 which the motion is based.

6636 (2) A respondent may file a motion to disqualify one or more members of the
6637 commission from participating in proceedings relating to the complaint if the respondent files
6638 the motion within 20 days after the later of:

6639 (a) the day on which the respondent receives delivery of the complaint; or

6640 (b) the day on which the respondent knew or should have known of the grounds upon
6641 which the motion is based.

6642 (3) A motion filed under this section shall include:

6643 (a) a statement that the members to whom the motion relates have a conflict of interest
6644 that, under the circumstances, would lead a reasonable person to question the impartiality of
6645 the members;

6646 (b) a detailed description of the grounds supporting the statement described in
6647 Subsection (3)(a); and

6648 (c) a statement that the motion is filed in good faith, supported by an affidavit or
6649 declaration under penalty of [~~Section 78B-5-705~~] Title 78B, Chapter 18a, Uniform Unsworn
6650 Declarations Act, stating that the motion and all accompanying statements and documents are
6651 true and correct to the best of the complainant's or respondent's knowledge.

6652 (4) A party may not file more than one motion to disqualify, unless the second or
6653 subsequent motion:

6654 (a) is based on grounds of which the party was not aware, and could not have been
6655 aware, at the time of the earlier motion; and

6656 (b) is accompanied by a statement, included in the affidavit or declaration described in
6657 Subsection (3)(c), explaining how and when the party first became aware of the grounds
6658 described in Subsection (4)(a).

6659 (5) The commission shall dismiss a motion filed under this section, with prejudice, if
6660 the motion:

6661 (a) is not timely filed; or

6662 (b) does not comply with the requirements of this section.

6663 (6) A member of the commission may:

6664 (a) on the member's own motion, disqualify the member from participating in
6665 proceedings relating to a complaint if the member believes that the member has a conflict of

6666 interest that, under the circumstances, would lead a reasonable person to question the
6667 impartiality of the member; or

6668 (b) ask the commission to disqualify another member of the commission if the member
6669 believes that the member has a conflict of interest that, under the circumstances, would lead a
6670 reasonable person to question the impartiality of the member.

6671 (7) (a) When a party files a motion under this section, or when a commission member
6672 makes a request under Subsection (6)(b), the commission member for whom disqualification is
6673 sought may make the initial determination regarding whether the commission member has a
6674 conflict of interest.

6675 (b) If a commission member described in Subsection (7)(a) determines that the
6676 commission member has a conflict of interest, the commission member shall disqualify the
6677 commission member from participating in the matter.

6678 (c) If a commission member described in Subsection (7)(a) determines that the
6679 commission member does not have a conflict of interest, or declines to make the determination,
6680 the remainder of the commission shall, by majority vote, determine whether the commission
6681 member has a conflict of interest.

6682 (d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on
6683 the issue of a conflict of interest.

6684 (8) In making a determination under Subsection (7)(c), the commission may:

6685 (a) gather additional evidence;

6686 (b) hear testimony; or

6687 (c) request that the commission member who is the subject of the motion or request file
6688 an affidavit or declaration responding to questions posed by the commission.

6689 Section 95. Section **63A-15-303** is amended to read:

6690 **63A-15-303. Motion to disqualify commission member for conflict of interest.**

6691 (1) A complainant may file a motion to disqualify one or more members of the
6692 commission from participating in proceedings relating to the complaint if the individual files
6693 the motion within 20 days after the later of:

6694 (a) the day on which the individual files the ethics complaint; or

6695 (b) the day on which the individual knew or should have known of the grounds upon
6696 which the motion is based.

6697 (2) A respondent may file a motion to disqualify one or more members of the
6698 commission from participating in proceedings relating to the complaint if the respondent files
6699 the motion within 20 days after the later of:

- 6700 (a) the day on which the respondent receives delivery of the complaint; or
- 6701 (b) the day on which the respondent knew or should have known of the grounds upon
6702 which the motion is based.

6703 (3) A motion filed under this section shall include:

6704 (a) a statement that the members to whom the motion relates have a conflict of interest
6705 that, under the circumstances, would lead a reasonable person to question the impartiality of
6706 the members;

6707 (b) a detailed description of the grounds supporting the statement described in
6708 Subsection (3)(a); and

6709 (c) a statement that the motion is filed in good faith, supported by an affidavit or
6710 declaration under penalty of [~~Section 78B-5-705~~] Title 78B, Chapter 18a, Uniform Unsworn
6711 Declarations Act, stating that the motion and all accompanying statements and documents are
6712 true and correct to the best of the complainant's or respondent's knowledge.

6713 (4) A party may not file more than one motion to disqualify, unless the second or
6714 subsequent motion:

6715 (a) is based on grounds of which the party was not aware, and could not have been
6716 aware, at the time of the earlier motion; and

6717 (b) is accompanied by a statement, included in the affidavit or declaration described in
6718 Subsection (3)(c), explaining how and when the party first became aware of the grounds
6719 described in Subsection (4)(a).

6720 (5) The commission shall dismiss a motion filed under this section, with prejudice, if
6721 the motion:

6722 (a) is not timely filed; or

6723 (b) does not comply with the requirements of this section.

6724 (6) A member of the commission may:

6725 (a) on the member's own motion, disqualify the member from participating in
6726 proceedings relating to a complaint if the member believes that the member has a conflict of
6727 interest that, under the circumstances, would lead a reasonable person to question the

6728 impartiality of the member; or

6729 (b) ask the commission to disqualify another member of the commission if the member
6730 believes that the member has a conflict of interest that, under the circumstances, would lead a
6731 reasonable person to question the impartiality of the member.

6732 (7) (a) When a party files a motion under this section, or a when commission member
6733 makes a request under Subsection (6)(b), the commission member for whom disqualification is
6734 sought may make the initial determination regarding whether the commission member has a
6735 conflict of interest.

6736 (b) If a commission member described in Subsection (7)(a) determines that the
6737 commission member has a conflict of interest, the commission member shall disqualify the
6738 commission member from participating in the matter.

6739 (c) If a commission member described in Subsection (7)(a) determines that the
6740 commission member does not have a conflict of interest, or declines to make the determination,
6741 the remainder of the commission shall, by majority vote, determine whether the commission
6742 member has a conflict of interest.

6743 (d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on
6744 the issue of a conflict of interest.

6745 (8) In making a determination under Subsection (7)(c), the commission may:

6746 (a) gather additional evidence;

6747 (b) hear testimony; or

6748 (c) request that the commission member who is the subject of the motion or request file
6749 an affidavit or declaration responding to questions posed by the commission.

6750 Section 96. Section **63G-6a-103** is amended to read:

6751 **63G-6a-103. Definitions.**

6752 As used in this chapter:

6753 (1) "Applicable rulemaking authority" means:

6754 (a) for a legislative procurement unit, the Legislative Management Committee;

6755 (b) for a judicial procurement unit, the Judicial Council;

6756 (c) (i) only to the extent of the procurement authority expressly granted to the
6757 procurement unit by statute:

6758 (A) for the building board or the Division of Facilities Construction and Management,

6759 created in Section [63A-5-201](#), the building board;

6760 (B) for the Office of the Attorney General, the attorney general; and

6761 (C) for the Department of Transportation created in Section [72-1-201](#), the executive

6762 director of the Department of Transportation; and

6763 (ii) for each other executive branch procurement unit, the board;

6764 (d) for a local government procurement unit:

6765 (i) the legislative body of the local government procurement unit; or

6766 (ii) an individual or body designated by the legislative body of the local government

6767 procurement unit;

6768 (e) for a school district or a public school, the board, except to the extent of a school

6769 district's own nonadministrative rules that do not conflict with the provisions of this chapter;

6770 (f) for a state institution of higher education described in:

6771 (i) Subsections [53B-1-102](#)(1)(a) and (c), the State Board of Regents; or

6772 (ii) Subsection [53B-1-102](#)(1)(b), the Utah System of Technical Colleges Board of

6773 Trustees;

6774 (g) for the State Board of Education, the State Board of Education;

6775 (h) for a public transit district, the chief executive of the public transit district;

6776 (i) for a local district other than a public transit district or for a special service district:

6777 (i) before January 1, 2015, the board of trustees of the local district or the governing

6778 body of the special service district; or

6779 (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees

6780 of the local district or the governing body of the special service district makes its own rules:

6781 (A) with respect to a subject addressed by board rules; or

6782 (B) that are in addition to board rules;

6783 (j) for the Utah Communications Authority, established in Section [63H-7a-201](#), the

6784 Utah Communications Authority Board, created in Section [63H-7a-203](#); or

6785 (k) for any other procurement unit, the board.

6786 (2) "Approved vendor" means a person who has been approved for inclusion on an

6787 approved vendor list through the approved vendor list process.

6788 (3) "Approved vendor list" means a list of approved vendors established under Section

6789 [63G-6a-507](#).

- 6790 (4) "Approved vendor list process" means the procurement process described in
6791 Section [63G-6a-507](#).
- 6792 (5) "Bidder" means a person who submits a bid or price quote in response to an
6793 invitation for bids.
- 6794 (6) "Bidding process" means the procurement process described in Part 6, Bidding.
- 6795 (7) "Board" means the Utah State Procurement Policy Board, created in Section
6796 [63G-6a-202](#).
- 6797 (8) "Building board" means the State Building Board, created in Section [63A-5-101](#).
- 6798 (9) "Change directive" means a written order signed by the procurement officer that
6799 directs the contractor to suspend work or make changes, as authorized by contract, without the
6800 consent of the contractor.
- 6801 (10) "Change order" means a written alteration in specifications, delivery point, rate of
6802 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual
6803 agreement of the parties to the contract.
- 6804 (11) "Chief procurement officer" means the chief procurement officer appointed under
6805 Subsection [63G-6a-302\(1\)](#).
- 6806 (12) "Conducting procurement unit" means a procurement unit that conducts all
6807 aspects of a procurement:
- 6808 (a) except:
- 6809 (i) reviewing a solicitation to verify that it is in proper form; and
- 6810 (ii) causing the publication of a notice of a solicitation; and
- 6811 (b) including:
- 6812 (i) preparing any solicitation document;
- 6813 (ii) appointing an evaluation committee;
- 6814 (iii) conducting the evaluation process, except as provided in Subsection
6815 [63G-6a-707\(6\)\(b\)](#) relating to scores calculated for costs of proposals;
- 6816 (iv) selecting and recommending the person to be awarded a contract;
- 6817 (v) negotiating the terms and conditions of a contract, subject to the issuing
6818 procurement unit's approval; and
- 6819 (vi) contract administration.
- 6820 (13) "Conservation district" means the same as that term is defined in Section

6821 17D-3-102.

6822 (14) "Construction":

6823 (a) means services, including work, and supplies for a project for the construction,
6824 renovation, alteration, improvement, or repair of a public facility on real property; and

6825 (b) does not include services and supplies for the routine, day-to-day operation, repair,
6826 or maintenance of an existing public facility.

6827 (15) "Construction manager/general contractor":

6828 (a) means a contractor who enters into a contract:

6829 (i) for the management of a construction project; and

6830 (ii) that allows the contractor to subcontract for additional labor and materials that are
6831 not included in the contractor's cost proposal submitted at the time of the procurement of the
6832 contractor's services; and

6833 (b) does not include a contractor whose only subcontract work not included in the
6834 contractor's cost proposal submitted as part of the procurement of the contractor's services is to
6835 meet subcontracted portions of change orders approved within the scope of the project.

6836 (16) "Construction subcontractor":

6837 (a) means a person under contract with a contractor or another subcontractor to provide
6838 services or labor for the design or construction of a construction project;

6839 (b) includes a general contractor or specialty contractor licensed or exempt from
6840 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

6841 (c) does not include a supplier who provides only materials, equipment, or supplies to a
6842 contractor or subcontractor for a construction project.

6843 (17) "Contract" means an agreement for a procurement.

6844 (18) "Contract administration" means all functions, duties, and responsibilities
6845 associated with managing, overseeing, and carrying out a contract between a procurement unit
6846 and a contractor, including:

6847 (a) implementing the contract;

6848 (b) ensuring compliance with the contract terms and conditions by the conducting
6849 procurement unit and the contractor;

6850 (c) executing change orders;

6851 (d) processing contract amendments;

- 6852 (e) resolving, to the extent practicable, contract disputes;
- 6853 (f) curing contract errors and deficiencies;
- 6854 (g) terminating a contract;
- 6855 (h) measuring or evaluating completed work and contractor performance;
- 6856 (i) computing payments under the contract; and
- 6857 (j) closing out a contract.
- 6858 (19) "Contractor" means a person who is awarded a contract with a procurement unit.
- 6859 (20) "Cooperative procurement" means procurement conducted by, or on behalf of:
- 6860 (a) more than one procurement unit; or
- 6861 (b) a procurement unit and a cooperative purchasing organization.
- 6862 (21) "Cooperative purchasing organization" means an organization, association, or
- 6863 alliance of purchasers established to combine purchasing power in order to obtain the best
- 6864 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).
- 6865 (22) "Cost-plus-a-percentage-of-cost contract" means a contract under which the
- 6866 contractor is paid a percentage of the total actual expenses or costs in addition to the
- 6867 contractor's actual expenses or costs.
- 6868 (23) "Cost-reimbursement contract" means a contract under which a contractor is
- 6869 reimbursed for costs which are allowed and allocated in accordance with the contract terms and
- 6870 the provisions of this chapter, and a fee, if any.
- 6871 (24) "Days" means calendar days, unless expressly provided otherwise.
- 6872 (25) "Definite quantity contract" means a fixed price contract that provides for a
- 6873 specified amount of supplies over a specified period, with deliveries scheduled according to a
- 6874 specified schedule.
- 6875 (26) "Design professional" means:
- 6876 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects
- 6877 Licensing Act; or
- 6878 (b) an individual licensed as a professional engineer or professional land surveyor
- 6879 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing
- 6880 Act.
- 6881 (27) "Design professional procurement process" means the procurement process
- 6882 described in Part 15, Design Professional Services.

6883 ~~[(28) "Design-build" means the procurement of design professional services and~~
6884 ~~construction by the use of a single contract.]~~

6885 [(29)] (28) "Design professional services" means:

6886 (a) professional services within the scope of the practice of architecture as defined in
6887 Section [58-3a-102](#);

6888 (b) professional engineering as defined in Section [58-22-102](#); or

6889 (c) master planning and programming services.

6890 (29) "Design-build" means the procurement of design professional services and
6891 construction by the use of a single contract.

6892 (30) "Director" means the director of the division.

6893 (31) "Division" means the Division of Purchasing and General Services, created in
6894 Section [63A-2-101](#).

6895 (32) "Educational procurement unit" means:

6896 (a) a school district;

6897 (b) a public school, including a local school board or a charter school;

6898 (c) the Utah Schools for the Deaf and the Blind;

6899 (d) the Utah Education and Telehealth Network;

6900 (e) an institution of higher education of the state described in Section [53B-1-102](#); or

6901 (f) the State Board of Education.

6902 (33) "Established catalogue price" means the price included in a catalogue, price list,
6903 schedule, or other form that:

6904 (a) is regularly maintained by a manufacturer or contractor;

6905 (b) is published or otherwise available for inspection by customers; and

6906 (c) states prices at which sales are currently or were last made to a significant number
6907 of any category of buyers or buyers constituting the general buying public for the supplies or
6908 services involved.

6909 (34) "Executive branch procurement unit" means a department, division, office,
6910 bureau, agency, or other organization within the state executive branch.

6911 (35) "Fixed price contract" means a contract that provides a price, for each
6912 procurement item obtained under the contract, that is not subject to adjustment except to the
6913 extent that:

- 6914 (a) the contract provides, under circumstances specified in the contract, for an
6915 adjustment in price that is not based on cost to the contractor; or
6916 (b) an adjustment is required by law.
- 6917 (36) "Fixed price contract with price adjustment" means a fixed price contract that
6918 provides for an upward or downward revision of price, precisely described in the contract, that:
6919 (a) is based on the consumer price index or another commercially acceptable index,
6920 source, or formula; and
6921 (b) is not based on a percentage of the cost to the contractor.
- 6922 (37) "Grant" means an expenditure of public funds or other assistance, or an agreement
6923 to expend public funds or other assistance, for a public purpose authorized by law, without
6924 acquiring a procurement item in exchange.
- 6925 (38) "Head of a procurement unit" means:
6926 (a) for a legislative procurement unit, any person designated by rule made by the
6927 applicable rulemaking authority;
6928 (b) for an executive branch procurement unit:
6929 (i) the director of the division; or
6930 (ii) any other person designated by the board, by rule;
6931 (c) for a judicial procurement unit:
6932 (i) the Judicial Council; or
6933 (ii) any other person designated by the Judicial Council, by rule;
6934 (d) for a local government procurement unit:
6935 (i) the legislative body of the local government procurement unit; or
6936 (ii) any other person designated by the local government procurement unit;
6937 (e) for a local district other than a public transit district, the board of trustees of the
6938 local district or a designee of the board of trustees;
6939 (f) for a special service district, the governing body of the special service district or a
6940 designee of the governing body;
6941 (g) for a local building authority, the board of directors of the local building authority
6942 or a designee of the board of directors;
6943 (h) for a conservation district, the board of supervisors of the conservation district or a
6944 designee of the board of supervisors;

- 6945 (i) for a public corporation, the board of directors of the public corporation or a
6946 designee of the board of directors;
- 6947 (j) for a school district or any school or entity within a school district, the board of the
6948 school district, or the board's designee;
- 6949 (k) for a charter school, the individual or body with executive authority over the charter
6950 school, or the individual's or body's designee;
- 6951 (l) for an institution of higher education described in Section [53B-2-101](#), the president
6952 of the institution of higher education, or the president's designee;
- 6953 (m) for a public transit district, the board of trustees or a designee of the board of
6954 trustees;
- 6955 (n) for the State Board of Education, the State Board of Education or a designee of the
6956 State Board of Education; or
- 6957 (o) for the Utah Communications Authority, established in Section [63H-7a-201](#), the
6958 executive director of the Utah Communications Authority or a designee of the executive
6959 director.
- 6960 (39) "Immaterial error":
 - 6961 (a) means an irregularity or abnormality that is:
 - 6962 (i) a matter of form that does not affect substance; or
 - 6963 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,
6964 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and
 - 6965 (b) includes:
 - 6966 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a
6967 professional license, bond, or insurance certificate;
 - 6968 (ii) a typographical error;
 - 6969 (iii) an error resulting from an inaccuracy or omission in the solicitation; and
 - 6970 (iv) any other error that the chief procurement officer or the head of a procurement unit
6971 with independent procurement authority reasonably considers to be immaterial.
- 6972 (40) "Indefinite quantity contract" means a fixed price contract that:
 - 6973 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
6974 procurement unit; and
 - 6975 (b) (i) does not require a minimum purchase amount; or

- 6976 (ii) provides a maximum purchase limit.
- 6977 (41) "Independent procurement authority" means authority granted to a procurement
6978 unit under Subsection 63G-6a-106(4)(a).
- 6979 (42) "Invitation for bids":
- 6980 (a) means a document used to solicit:
- 6981 (i) bids to provide a procurement item to a procurement unit; or
- 6982 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
- 6983 (b) includes all documents attached to or incorporated by reference in a document
6984 described in Subsection (42)(a).
- 6985 (43) "Issuing procurement unit" means a procurement unit that:
- 6986 (a) reviews a solicitation to verify that it is in proper form;
- 6987 (b) causes the notice of a solicitation to be published; and
- 6988 (c) negotiates and approves the terms and conditions of a contract.
- 6989 (44) "Judicial procurement unit" means:
- 6990 (a) the Utah Supreme Court;
- 6991 (b) the Utah Court of Appeals;
- 6992 (c) the Judicial Council;
- 6993 (d) a state judicial district; or
- 6994 (e) an office, committee, subcommittee, or other organization within the state judicial
6995 branch.
- 6996 (45) "Labor hour contract" is a contract under which:
- 6997 (a) the supplies and materials are not provided by, or through, the contractor; and
- 6998 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
6999 profit for a specified number of labor hours or days.
- 7000 (46) "Legislative procurement unit" means:
- 7001 (a) the Legislature;
- 7002 (b) the Senate;
- 7003 (c) the House of Representatives;
- 7004 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
- 7005 (e) a committee, subcommittee, commission, or other organization:
- 7006 (i) within the state legislative branch; or

7007 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;
7008 (B) the membership of which includes legislators; and
7009 (C) for which the Office of Legislative Research and General Counsel provides staff
7010 support.

7011 (47) "Local building authority" means the same as that term is defined in Section
7012 [17D-2-102](#).

7013 (48) "Local district" means the same as that term is defined in Section [17B-1-102](#).

7014 (49) "Local government procurement unit" means:

7015 (a) a county or municipality, and each office or agency of the county or municipality,
7016 unless the county or municipality adopts its own procurement code by ordinance;

7017 (b) a county or municipality that has adopted this entire chapter by ordinance, and each
7018 office or agency of that county or municipality; or

7019 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to
7020 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each
7021 office or agency of that county or municipality.

7022 (50) "Multiple award contracts" means the award of a contract for an indefinite
7023 quantity of a procurement item to more than one person.

7024 (51) "Multiyear contract" means a contract that extends beyond a one-year period,
7025 including a contract that permits renewal of the contract, without competition, beyond the first
7026 year of the contract.

7027 (52) "Municipality" means a city, town, or metro township.

7028 (53) "Nonadopting local government procurement unit" means:

7029 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,
7030 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,
7031 General Provisions Related to Protest or Appeal; and

7032 (b) each office or agency of a county or municipality described in Subsection (53)(a).

7033 (54) "Offeror" means a person who submits a proposal in response to a request for
7034 proposals.

7035 (55) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
7036 under the requirements of this chapter.

7037 (56) "Procure" means to acquire a procurement item through a procurement.

- 7038 (57) "Procurement":
- 7039 (a) means a procurement unit's acquisition of a procurement item through an
- 7040 expenditure of public funds, or an agreement to expend public funds, including an acquisition
- 7041 through a public-private partnership;
- 7042 (b) includes all functions that pertain to the acquisition of a procurement item,
- 7043 including:
- 7044 (i) preparing and issuing a solicitation; and
- 7045 (ii) (A) conducting a standard procurement process; or
- 7046 (B) conducting a procurement process that is an exception to a standard procurement
- 7047 process under Part 8, Exceptions to Procurement Requirements; and
- 7048 (c) does not include a grant.
- 7049 (58) "Procurement item" means a supply, a service, or construction.
- 7050 (59) "Procurement officer" means:
- 7051 (a) for a procurement unit with independent procurement authority:
- 7052 (i) the head of the procurement unit;
- 7053 (ii) a designee of the head of the procurement unit; or
- 7054 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 7055 (b) for the division or a procurement unit without independent procurement authority,
- 7056 the chief procurement officer.
- 7057 (60) "Procurement unit":
- 7058 (a) means:
- 7059 (i) a legislative procurement unit;
- 7060 (ii) an executive branch procurement unit;
- 7061 (iii) a judicial procurement unit;
- 7062 (iv) an educational procurement unit;
- 7063 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);
- 7064 (vi) a local government procurement unit;
- 7065 (vii) a local district;
- 7066 (viii) a special service district;
- 7067 (ix) a local building authority;
- 7068 (x) a conservation district;

- 7069 (xi) a public corporation; or
- 7070 (xii) a public transit district; and
- 7071 (b) does not include a political subdivision created under Title 11, Chapter 13,
- 7072 Interlocal Cooperation Act.
- 7073 (61) "Professional service" means labor, effort, or work that requires an elevated
- 7074 degree of specialized knowledge and discretion, including labor, effort, or work in the field of:
- 7075 (a) accounting;
- 7076 (b) administrative law judge service;
- 7077 (c) architecture;
- 7078 (d) construction design and management;
- 7079 (e) engineering;
- 7080 (f) financial services;
- 7081 (g) information technology;
- 7082 (h) the law;
- 7083 (i) medicine;
- 7084 (j) psychiatry; or
- 7085 (k) underwriting.
- 7086 (62) "Protest officer" means:
- 7087 (a) for the division or a procurement unit with independent procurement authority:
- 7088 (i) the head of the procurement unit;
- 7089 (ii) the head of the procurement unit's designee who is an employee of the procurement
- 7090 unit; or
- 7091 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 7092 (b) for a procurement unit without independent procurement authority, the chief
- 7093 procurement officer or the chief procurement officer's designee who is an employee of the
- 7094 division.
- 7095 (63) "Public corporation" means the same as that term is defined in Section [63E-1-102](#).
- 7096 (64) "Public entity" means any government entity of the state or political subdivision of
- 7097 the state, including:
- 7098 (a) a procurement unit;
- 7099 (b) a municipality or county, regardless of whether the municipality or county has

7100 adopted this chapter or any part of this chapter; and

7101 (c) any other government entity located in the state that expends public funds.

7102 (65) "Public facility" means a building, structure, infrastructure, improvement, or other
7103 facility of a public entity.

7104 (66) "Public funds" means money, regardless of its source, including from the federal
7105 government, that is owned or held by a procurement unit.

7106 (67) "Public transit district" means a public transit district organized under Title 17B,
7107 Chapter 2a, Part 8, Public Transit District Act.

7108 (68) "Public-private partnership" means an arrangement or agreement, occurring on or
7109 after January 1, 2017, between a procurement unit and one or more contractors to provide for a
7110 public need through the development or operation of a project in which the contractor or
7111 contractors share with the procurement unit the responsibility or risk of developing, owning,
7112 maintaining, financing, or operating the project.

7113 (69) "Qualified vendor" means a vendor who:

7114 (a) is responsible; and

7115 (b) submits a responsive statement of qualifications under Section [63G-6a-410](#) that
7116 meets the minimum mandatory requirements, evaluation criteria, and any applicable score
7117 thresholds set forth in the request for statement of qualifications.

7118 (70) "Real property" means land and any building, fixture, improvement, appurtenance,
7119 structure, or other development that is permanently affixed to land.

7120 (71) "Request for information" means a nonbinding process through which a
7121 procurement unit requests information relating to a procurement item.

7122 (72) "Request for proposals" means a document used to solicit proposals to provide a
7123 procurement item to a procurement unit, including all other documents that are attached to that
7124 document or incorporated in that document by reference.

7125 (73) "Request for proposals process" means the procurement process described in Part
7126 7, Request for Proposals.

7127 (74) "Request for statement of qualifications" means a document used to solicit
7128 information about the qualifications of a person interested in responding to a potential
7129 procurement, including all other documents attached to that document or incorporated in that
7130 document by reference.

- 7131 (75) "Requirements contract" means a contract:
- 7132 (a) under which a contractor agrees to provide a procurement unit's entire requirements
- 7133 for certain procurement items at prices specified in the contract during the contract period; and
- 7134 (b) that:
- 7135 (i) does not require a minimum purchase amount; or
- 7136 (ii) provides a maximum purchase limit.
- 7137 (76) "Responsible" means being capable, in all respects, of:
- 7138 (a) meeting all the requirements of a solicitation; and
- 7139 (b) fully performing all the requirements of the contract resulting from the solicitation,
- 7140 including being financially solvent with sufficient financial resources to perform the contract.
- 7141 (77) "Responsive" means conforming in all material respects to the requirements of a
- 7142 solicitation.
- 7143 (78) "Sealed" means manually or electronically secured to prevent disclosure.
- 7144 (79) "Service":
- 7145 (a) means labor, effort, or work to produce a result that is beneficial to a procurement
- 7146 unit;
- 7147 (b) includes a professional service; and
- 7148 (c) does not include labor, effort, or work provided under an employment agreement or
- 7149 a collective bargaining agreement.
- 7150 (80) "Small purchase process" means the procurement process described in Section
- 7151 [63G-6a-506](#).
- 7152 (81) "Sole source contract" means a contract resulting from a sole source procurement.
- 7153 (82) "Sole source procurement" means a procurement without competition pursuant to
- 7154 a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source for the
- 7155 procurement item.
- 7156 (83) "Solicitation" means an invitation for bids, request for proposals, request for
- 7157 statement of qualifications, or request for information.
- 7158 (84) "Solicitation response" means:
- 7159 (a) a bid submitted in response to an invitation for bids;
- 7160 (b) a proposal submitted in response to a request for proposals; or
- 7161 (c) a statement of qualifications submitted in response to a request for statement of

7162 qualifications.

7163 (85) "Special service district" means the same as that term is defined in Section
7164 17D-1-102.

7165 (86) "Specification" means any description of the physical or functional characteristics
7166 or of the nature of a procurement item included in an invitation for bids or a request for
7167 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

7168 (a) a requirement for inspecting or testing a procurement item; or

7169 (b) preparing a procurement item for delivery.

7170 (87) "Standard procurement process" means:

7171 (a) the bidding process;

7172 (b) the request for proposals process;

7173 (c) the approved vendor list process;

7174 (d) the small purchase process; or

7175 (e) the design professional procurement process.

7176 (88) "State cooperative contract" means a contract awarded by the division for and in
7177 behalf of all public entities.

7178 (89) "Statement of qualifications" means a written statement submitted to a
7179 procurement unit in response to a request for statement of qualifications.

7180 (90) "Subcontractor":

7181 (a) means a person under contract to perform part of a contractual obligation under the
7182 control of the contractor, whether the person's contract is with the contractor directly or with
7183 another person who is under contract to perform part of a contractual obligation under the
7184 control of the contractor; and

7185 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services
7186 to a contractor.

7187 (91) "Supply" means a good, material, technology, piece of equipment, or any other
7188 item of personal property.

7189 (92) "Tie bid" means that the lowest responsive bids of responsible bidders are
7190 identical in price.

7191 (93) "Time and materials contract" means a contract under which the contractor is paid:

7192 (a) the actual cost of direct labor at specified hourly rates;

7193 (b) the actual cost of materials and equipment usage; and
7194 (c) an additional amount, expressly described in the contract, to cover overhead and
7195 profit, that is not based on a percentage of the cost to the contractor.

7196 (94) "Transitional costs":

7197 (a) means the costs of changing:

7198 (i) from an existing provider of a procurement item to another provider of that
7199 procurement item; or

7200 (ii) from an existing type of procurement item to another type;

7201 (b) includes:

7202 (i) training costs;

7203 (ii) conversion costs;

7204 (iii) compatibility costs;

7205 (iv) costs associated with system downtime;

7206 (v) disruption of service costs;

7207 (vi) staff time necessary to implement the change;

7208 (vii) installation costs; and

7209 (viii) ancillary software, hardware, equipment, or construction costs; and

7210 (c) does not include:

7211 (i) the costs of preparing for or engaging in a procurement process; or

7212 (ii) contract negotiation or drafting costs.

7213 (95) "Trial use contract" means a contract for a procurement item that the procurement
7214 unit acquires for a trial use or testing to determine whether the procurement item will benefit
7215 the procurement unit.

7216 (96) "Vendor":

7217 (a) means a person who is seeking to enter into a contract with a procurement unit to
7218 provide a procurement item; and

7219 (b) includes:

7220 (i) a bidder;

7221 (ii) an offeror;

7222 (iii) an approved vendor;

7223 (iv) a design professional; and

- 7224 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).
- 7225 Section 97. Section **63H-1-205** is amended to read:
- 7226 **63H-1-205. MIDA accommodations tax.**
- 7227 (1) As used in this section:
- 7228 (a) "Accommodations and services" means an accommodation or service described in
- 7229 Subsection [59-12-103](#)(1)(i).
- 7230 (b) "Accommodations and services" does not include amounts paid or charged that are
- 7231 not part of a rental room rate.
- 7232 (2) By ordinance, the authority board may impose a MIDA accommodations tax on a
- 7233 provider for amounts paid or charged for accommodations and services, if the place of
- 7234 accommodation is located on authority-owned or other government-owned property within the
- 7235 project area.
- 7236 (3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid
- 7237 to or charged by the provider for accommodations and services.
- 7238 (4) A provider may recover an amount equal to the MIDA accommodations tax from
- 7239 customers, if the provider includes the amount as a separate billing line item.
- 7240 (5) If the authority imposes the tax described in this section, neither the authority nor a
- 7241 public entity may impose, on the amounts paid or charged for accommodations and services,
- 7242 any other tax described in:
- 7243 (a) Title 59, Chapter 12, Sales and Use Tax Act; or
- 7244 (b) Title 59, Chapter 28, State Transient Room Tax Act.
- 7245 (6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall
- 7246 be administered, collected, and enforced in accordance with:
- 7247 (a) the same procedures used to administer, collect, and enforce the tax under:
- 7248 (i) Title 59, Chapter 12, Part 1, Tax Collection; or
- 7249 (ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and
- 7250 (b) Title 59, Chapter 1, General Taxation Policies.
- 7251 (7) The location of a transaction shall be determined in accordance with Sections
- 7252 [59-12-211](#) through [59-12-215](#).
- 7253 (8) (a) A tax under this section is not subject to Section [59-12-107.1](#) or [59-12-123](#) or
- 7254 Subsections [59-12-205](#)(2) through [~~(7)~~] (5).

7255 (b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do
7256 not apply to a tax imposed under this section.

7257 (9) The State Tax Commission shall:

7258 (a) except as provided in Subsection (9)(b), distribute the revenue collected from the
7259 tax to the authority; and

7260 (b) retain and deposit an administrative charge in accordance with Section 59-1-306
7261 from revenue the commission collects from a tax under this section.

7262 (10) (a) If the authority imposes, repeals, or changes the rate of tax under this section,
7263 the implementation, repeal, or change shall take effect:

7264 (i) on the first day of a calendar quarter; and

7265 (ii) after a 90-day period beginning on the date the State Tax Commission receives the
7266 notice described in Subsection (10)(b) from the authority.

7267 (b) The notice required in Subsection (10)(a)(ii) shall state:

7268 (i) that the authority will impose, repeal, or change the rate of a tax under this section;

7269 (ii) the effective date of the implementation, repeal, or change of the tax; and

7270 (iii) the rate of the tax.

7271 (11) In addition to the uses permitted under Section 63H-1-502, the authority may
7272 allocate revenue from the MIDA accommodations tax to a county in which a place of
7273 accommodation that is subject to the MIDA accommodations tax is located, if:

7274 (a) the county had a transient room tax described in Section 59-12-301 in effect at the
7275 time the authority board imposed a MIDA accommodations tax by ordinance; and

7276 (b) the revenue replaces revenue that the county received from a county transient room
7277 tax described in Section 59-12-301 for the county's general operations and administrative
7278 expenses.

7279 Section 98. Section 63I-1-226 is amended to read:

7280 **63I-1-226. Repeal dates, Title 26.**

7281 (1) Section 26-1-40 is repealed July 1, 2019.

7282 (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
7283 1, 2025.

7284 (3) Section 26-10-11 is repealed July 1, 2020.

7285 (4) Subsection 26-18-417(3) is repealed July 1, 2020.

- 7286 (5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- 7287 (6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.
- 7288 (7) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed
- 7289 July 1, 2024.
- 7290 (8) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2019.
- 7291 [~~(9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.~~]
- 7292 [~~(10)~~ (9) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is
- 7293 repealed July 1, 2026.
- 7294 Section 99. Section **63I-1-231** is amended to read:
- 7295 **63I-1-231. Repeal dates, Title 31A.**
- 7296 (1) Section [31A-2-217](#), Coordination with other states, is repealed July 1, 2023.
- 7297 (2) Section [31A-22-615.5](#) is repealed July 1, 2022.
- 7298 [~~(3) Section [31A-22-619.6](#), Coordination of benefits with workers' compensation~~
- 7299 ~~claim--Health insurer's duty to pay, is repealed on July 1, 2018.~~]
- 7300 Section 100. Section **63I-1-234** is amended to read:
- 7301 **63I-1-234. Repeal dates, Titles 34 and 34A.**
- 7302 [~~(1)~~] Section [34A-2-202.5](#) is repealed December 31, 2020.
- 7303 [~~(2) Section [34A-2-213](#), Coordination of benefits with health benefit plan--Timely~~
- 7304 ~~payment of claims, is repealed July 1, 2018.~~]
- 7305 Section 101. Section **63I-1-253** is amended to read:
- 7306 **63I-1-253. Repeal dates, Titles 53 through 53G.**
- 7307 The following provisions are repealed on the following dates:
- 7308 [~~(1) Subsection [53-10-202](#)(18) is repealed July 1, 2018.~~]
- 7309 [~~(2) Section [53-10-202.1](#) is repealed July 1, 2018.~~]
- 7310 [~~(3)~~] (1) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.
- 7311 [~~(4)~~] (2) Section [53B-18-1501](#) is repealed July 1, 2021.
- 7312 [~~(5)~~] (3) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.
- 7313 [~~(6)~~] (4) Section [53B-24-402](#), Rural residency training program, is repealed July 1,
- 7314 2020.
- 7315 [~~(7)~~] (5) Subsection [53C-3-203](#)(4)(b)(vii), which provides for the distribution of money
- 7316 from the Land Exchange Distribution Account to the Geological Survey for test wells, other

- 7317 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.
- 7318 ~~[(8)]~~ (6) Section [53E-3-515](#) is repealed January 1, 2023.
- 7319 ~~[(9)]~~ (7) Section [53F-2-514](#) is repealed July 1, 2020.
- 7320 ~~[(10)]~~ (8) Section [53F-5-203](#) is repealed July 1, 2019.
- 7321 ~~[(11)]~~ (9) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education
- 7322 State Plan Pilot Program, is repealed July 1, 2022.
- 7323 ~~[(12)]~~ (10) Section [53F-6-201](#) is repealed July 1, 2019.
- 7324 ~~[(13)]~~ (11) Section [53F-9-501](#) is repealed January 1, 2023.
- 7325 ~~[(14)]~~ (12) Subsection [53G-8-211](#)(4) is repealed July 1, 2020.
- 7326 Section 102. Section [63I-1-257](#) is amended to read:
- 7327 **63I-1-257. Repeal dates, Title 57.**
- 7328 [~~Section [57-1-25.5](#) is repealed on July 1, 2018.~~]
- 7329 Section 103. Section [63I-1-276](#) is amended to read:
- 7330 **63I-1-276. Repeal dates, Title 76.**
- 7331 [~~Subsection [76-10-526](#)(15) is repealed July 1, 2018.~~]
- 7332 Section 104. Section [63I-1-278](#) is amended to read:
- 7333 **63I-1-278. Repeal dates, Title 78A and Title 78B.**
- 7334 (1) Section [78B-3-421](#), regarding medical malpractice arbitration agreements, is
- 7335 repealed July 1, 2019.
- 7336 (2) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1,
- 7337 2026.
- 7338 [~~(3) Section [78B-6-802.7](#) is repealed on July 1, 2018.~~]
- 7339 Section 105. Section [63I-2-210](#) is amended to read:
- 7340 **63I-2-210. Repeal dates -- Title 10.**
- 7341 (1) On July 1, 2018, the following are repealed:
- 7342 (a) in Subsection [10-2-403](#)(5), the language that states "[10-2a-302](#) or";
- 7343 (b) in Subsection [10-2-403](#)(5)(b), the language that states "[10-2a-302](#) or";
- 7344 (c) in Subsection [10-2a-106](#)(2), the language that states "[10-2a-302](#) or";
- 7345 ~~[(d) Section [10-2a-302](#);~~
- 7346 ~~[(e)]~~ (d) Subsection [10-2a-302.5](#)(2)(a);
- 7347 ~~[(f)]~~ (e) in Subsection [10-2a-303](#)(1), the language that states "[10-2a-302](#) or"; and

7348 [~~(g)~~ in Subsection ~~10-2a-303~~(4), the language that states "~~10-2a-302~~(7)(b)(v) or" and
7349 "~~10-2a-302~~(7)(b)(iv) or";]

7350 [~~(h)~~] (f) in Subsection ~~10-2a-304~~(1)(a), the language that states "~~10-2a-302~~ or" [~~and~~].

7351 [~~(i)~~ in Subsection ~~10-2a-304~~(1)(a)(ii), the language that states "Subsection
7352 ~~10-2a-302~~(5) or".]

7353 (2) Subsection ~~10-9a-304~~(2) is repealed June 1, 2020.

7354 (3) When repealing Subsection ~~10-9a-304~~(2), the Office of Legislative Research and
7355 General Counsel shall, in addition to the office's authority under Subsection ~~36-12-12~~(3), make
7356 necessary changes to subsection numbering and cross references.

7357 Section 106. Section ~~63I-2-217~~ is amended to read:

7358 **~~63I-2-217. Repeal dates -- Title 17.~~**

7359 (1) Subsection ~~17-27a-102~~(1)(b), the language that states "or a designated mountainous
7360 planning district" is repealed June 1, 2020.

7361 (2) (a) Subsection ~~17-27a-103~~(15)(b) is repealed June 1, 2020.

7362 (b) Subsection ~~17-27a-103~~(37) is repealed June 1, 2020.

7363 (3) Subsection ~~17-27a-210~~(2)(a), the language that states "or the mountainous planning
7364 district area" is repealed June 1, 2020.

7365 (4) (a) Subsection ~~17-27a-301~~(1)(b)(iii) is repealed June 1, 2020.

7366 (b) Subsection ~~17-27a-301~~(1)(c) is repealed June 1, 2020.

7367 (c) Subsection ~~17-27a-301~~(2)(a), the language that states "described in Subsection
7368 (1)(a) or (c)" is repealed June 1, 2020.

7369 (5) [~~Subsection~~] Section ~~17-27a-302~~[(~~†~~)], the language that states ", or mountainous
7370 planning district" and "or the mountainous planning district," is repealed June 1, 2020.

7371 (6) Subsection ~~17-27a-305~~(1)(a), the language that states "a mountainous planning
7372 district or" and ", as applicable" is repealed June 1, 2020.

7373 (7) (a) Subsection ~~17-27a-401~~(1)(b)(ii) is repealed June 1, 2020.

7374 (b) Subsection ~~17-27a-401~~(6) is repealed June 1, 2020.

7375 (8) (a) Subsection ~~17-27a-403~~(1)(b)(ii) is repealed June 1, 2020.

7376 (b) Subsection ~~17-27a-403~~(1)(c)(iii) is repealed June 1, 2020.

7377 (c) Subsection ~~17-27a-403~~(2)(a)(iii), the language that states "or the mountainous
7378 planning district" is repealed June 1, 2020.

7379 (d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning
7380 district" is repealed June 1, 2020.

7381 (9) Subsection 17-27a-502(1)(d)(i)(B) is repealed June 1, 2020.

7382 (10) Subsection 17-27a-505.5(2)(a)(iii) is repealed June 1, 2020.

7383 (11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a
7384 mountainous planning district, the mountainous planning district" is repealed June 1, 2020.

7385 (12) Subsection 17-27a-604(1)(b)(i)(B) is repealed June 1, 2020.

7386 (13) Subsection 17-27a-605(1), the language that states "or mountainous planning
7387 district land" is repealed June 1, 2020.

7388 (14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1,
7389 2020.

7390 (15) On June 1, 2020, when making the changes in this section, the Office of
7391 Legislative Research and General Counsel shall:

7392 (a) in addition to its authority under Subsection 36-12-12(3), make corrections
7393 necessary to ensure that sections and subsections identified in this section are complete
7394 sentences and accurately reflect the office's understanding of the Legislature's intent; and

7395 (b) identify the text of the affected sections and subsections based upon the section and
7396 subsection numbers used in Laws of Utah 2017, Chapter 448.

7397 (16) On June 1, 2020:

7398 (a) Section 17-52a-104 is repealed;

7399 (b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision
7400 described in Subsection 17-52a-104(2)," is repealed;

7401 (c) Subsection 17-52a-301(3)(a)(vi) is repealed;

7402 (d) in Subsection 17-52a-501(1), the language that states "or, for a county under a
7403 pending process described in Section 17-52a-104, under Section 17-52-204 as that section was
7404 in effect on March 14, 2018," is repealed; and

7405 (e) in Subsection 17-52a-501(3)(a), the language that states "or, for a county under a
7406 pending process described in Section 17-52a-104, the attorney's report that is described in
7407 Section 17-52-204 as that section was in effect on March 14, 2018 and that contains a
7408 statement described in Subsection 17-52-204(5) as that subsection was in effect on March 14,
7409 2018," is repealed.

- 7410 (17) On January 1, 2028, Subsection 17-52a-102(3) is repealed.
- 7411 Section 107. Section 63I-2-220 is amended to read:
- 7412 **63I-2-220. Repeal dates -- Title 20A.**
- 7413 (1) Subsection 20A-5-803(8) is repealed July 1, 2023.
- 7414 (2) Section 20A-5-804 is repealed July 1, 2023.
- 7415 (3) On January 1, 2019, Subsections 20A-6-107(2) and (4) are repealed and the
- 7416 remaining subsections, and references to those subsections, are renumbered accordingly.
- 7417 (4) On July 1, 2018, in Subsection 20A-11-101(21), the language that states ",
- 7418 10-2a-302," is repealed.
- 7419 (5) On January 1, 2026:
- 7420 (a) In Subsection 20A-1-102[(23)](22)(a), the language that states "or Title 20A,
- 7421 Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.
- 7422 (b) In Subsections 20A-1-303(1)(a) and (b), the language that states "Except as
- 7423 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is
- 7424 repealed.
- 7425 (c) In Section 20A-1-304, the language that states "Except for a race conducted by
- 7426 instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods
- 7427 Pilot Project," is repealed.
- 7428 (d) In Subsection 20A-3-105(1)(a), the language that states "Except as provided in
- 7429 Subsection (5)," is repealed.
- 7430 (e) In Subsections 20A-3-105(1)(b), (3)(b), and (4)(b), the language that states "Except
- 7431 as provided in Subsections (5) and (6)," is repealed.
- 7432 (f) In Subsections 20A-3-105(2)(a)(i), (3)(a), and (4)(a), the language that states
- 7433 "Subject to Subsection (5)," is repealed.
- 7434 (g) Subsection 20A-3-105(5) is repealed and the remaining subsections in Section
- 7435 20A-3-105 are renumbered accordingly.
- 7436 (h) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in
- 7437 Subsection (2)(f)," is repealed.
- 7438 (i) Subsection 20A-4-101(2)(f) is repealed.
- 7439 (j) Subsection 20A-4-101[(4)](3) is repealed and replaced with the following:
- 7440 "[~~(4)~~] (3) To resolve questions that arise during the counting of ballots, a counting

7441 judge shall apply the standards and requirements of Section 20A-4-105.".

7442 (k) In Subsection 20A-4-102(1)(a), the language that states "or a rule made under
7443 Subsection 20A-4-101(2)(f)(i)" is repealed.

7444 (l) Subsection 20A-4-102(1)(b) is repealed and replaced with the following:

7445 "(b) To resolve questions that arise during the counting of ballots, a counting judge
7446 shall apply the standards and requirements of Section 20A-4-105.".

7447 (m) In Subsection 20A-4-102(6)(a), the language that states ", except as provided in
7448 Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made
7449 under Subsection 20A-4-101(2)(f)(i)" is repealed.

7450 (n) In Subsection 20A-4-105(1)(a), the language that states ", except as otherwise
7451 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is
7452 repealed.

7453 (o) In Subsection 20A-4-105(2), the language that states "Subsection 20A-3-105(5), or
7454 Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

7455 (p) In Subsections 20A-4-105(3), (5), and (12), the language that states "Except as
7456 otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot
7457 Project," is repealed.

7458 (q) In Subsection 20A-4-106(1)(a)(ii), the language that states "or Title 20A, Chapter
7459 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

7460 (r) In Subsection 20A-4-304(1)(a), the language that states "except as provided in Title
7461 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

7462 (s) Subsection 20A-4-304(2)(a)(v) is repealed and replaced with the following:

7463 "(v) from each voting precinct:

7464 (A) the number of votes for each candidate; and

7465 (B) the number of votes for and against each ballot proposition;".

7466 (t) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1)
7467 are renumbered accordingly, and the cross-references to those subsections are renumbered
7468 accordingly.

7469 (u) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is
7470 repealed.

7471 (v) Subsection 20A-5-404(3)(b) is repealed and the remaining subsections in

7472 Subsection (3) are renumbered accordingly.

7473 (w) Subsection 20A-5-404(4)(b) is repealed and the remaining subsections in

7474 Subsection (4) are renumbered accordingly.

7475 (x) Section 20A-6-203.5 is repealed.

7476 (y) In Subsections 20A-6-402(1), (2), (3), and (4), the language that states "Except as
7477 otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4,
7478 Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

7479 (z) In Subsection 20A-9-404(1)(a), the language that states "or Title 20A, Chapter 4,
7480 Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

7481 (aa) In Subsection 20A-9-404(2), the language that states "Except as otherwise
7482 provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is
7483 repealed.

7484 Section 108. Section 63I-2-232 is amended to read:

7485 **63I-2-232. Repeal dates -- Title 32B.**

7486 (1) Subsection 32B-1-102(7) is repealed July 1, 2022.

7487 (2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

7488 [~~(3)~~] Subsection 32B-1-604(4) is repealed June 1, 2018.]

7489 [~~(4)~~] (3) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

7490 [~~(5)~~] (4) Section 32B-6-205 is repealed July 1, 2022.

7491 [~~(6)~~] (5) Subsection 32B-6-205.2(15) is repealed July 1, 2022.

7492 [~~(7)~~] (6) Section 32B-6-205.3 is repealed July 1, 2022.

7493 [~~(8)~~] (7) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

7494 [~~(9)~~] (8) Section 32B-6-305 is repealed July 1, 2022.

7495 [~~(10)~~] (9) Subsection 32B-6-305.2(15) is repealed July 1, 2022.

7496 [~~(11)~~] (10) Section 32B-6-305.3 is repealed July 1, 2022.

7497 [~~(12)~~] (11) Section 32B-6-404.1 is repealed July 1, 2022.

7498 [~~(13)~~] (12) Section 32B-6-409 is repealed July 1, 2022.

7499 [~~(14)~~] (13) Section 32B-6-605.1 is repealed July 1, 2019.

7500 [~~(15)~~] (14) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

7501 [~~(16)~~] (15) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

7502 [~~(17)~~] (16) Section 32B-6-905 is repealed July 1, 2022.

- 7503 [~~(18)~~] (17) Subsection [32B-6-905.1](#)(16) is repealed July 1, 2022.
- 7504 [~~(19)~~] (18) Section [32B-6-905.2](#) is repealed July 1, 2022.
- 7505 [~~(20)~~] (19) Section [32B-7-303](#) is repealed March 1, 2019.
- 7506 [~~(21)~~] (20) Section [32B-7-304](#) is repealed March 1, 2019.
- 7507 [~~(22)~~] (21) Subsection [32B-8-402](#)(1)(b) is repealed July 1, 2022.
- 7508 Section 109. Section **63I-2-253** is amended to read:
- 7509 **63I-2-253. Repeal dates -- Titles 53 through 53G.**
- 7510 [~~(1) Section [53A-24-602](#) is repealed July 1, 2018.~~]
- 7511 [~~(2)~~] (1) (a) Subsections [53B-2a-103](#)(2) and (4) are repealed July 1, 2019.
- 7512 (b) When repealing Subsections [53B-2a-103](#)(2) and (4), the Office of Legislative
- 7513 Research and General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3),
- 7514 make necessary changes to subsection numbering and cross references.
- 7515 [~~(3)~~] (2) (a) Subsection [53B-2a-108](#)(5) is repealed July 1, 2022.
- 7516 (b) When repealing Subsection [53B-2a-108](#)(5), the Office of Legislative Research and
- 7517 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make
- 7518 necessary changes to subsection numbering and cross references.
- 7519 [~~(4)~~] (3) (a) Subsection [53B-7-705](#)(6)(b)(ii)(A), the language that states "Except as
- 7520 provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.
- 7521 (b) Subsection [53B-7-705](#)(6)(b)(ii)(B) is repealed July 1, 2021.
- 7522 [~~(5)~~] (4) (a) Subsection [53B-7-707](#)(4)(a)(ii), the language that states "Except as
- 7523 provided in Subsection (4)(b)," is repealed July 1, 2021.
- 7524 (b) Subsection [53B-7-707](#)(4)(b) is repealed July 1, 2021.
- 7525 [~~(6)~~] (5) (a) The following sections are repealed on July 1, 2023:
- 7526 (i) Section [53B-8-202](#);
- 7527 (ii) Section [53B-8-203](#);
- 7528 (iii) Section [53B-8-204](#); and
- 7529 (iv) Section [53B-8-205](#).
- 7530 (b) (i) Subsection [53B-8-201](#)(2) is repealed on July 1, 2023.
- 7531 (ii) When repealing Subsection [53B-8-201](#)(2), the Office of Legislative Research and
- 7532 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make
- 7533 necessary changes to subsection numbering and cross references.

7534 [(7)] (6) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is
7535 repealed July 1, 2023.

7536 [(8)] (7) Subsection 53E-5-306(3)(b)(ii)(B) is repealed July 1, 2020.

7537 [(9)] (8) Section 53E-5-307 is repealed July 1, 2020.

7538 [(10)] (9) In Subsections 53F-2-205(4) and (5), the language that states "or
7539 53F-2-301.5, as applicable" is repealed July 1, 2023.

7540 [(11)] (10) Subsection 53F-2-301(1) is repealed July 1, 2023.

7541 [(12)] (11) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as
7542 applicable" is repealed July 1, 2023.

7543 [(13)] (12) Section 53F-4-204 is repealed July 1, 2019.

7544 [(14)] (13) Section 53F-6-202 is repealed July 1, 2020.

7545 [(15)] (14) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as
7546 applicable" is repealed July 1, 2023.

7547 [(16)] (15) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as
7548 applicable" is repealed July 1, 2023.

7549 [(17)] (16) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as
7550 applicable" is repealed July 1, 2023.

7551 [(18)] (17) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5,
7552 as applicable" is repealed July 1, 2023.

7553 [(19)] (18) On July 1, 2023, when making changes in this section, the Office of
7554 Legislative Research and General Counsel shall, in addition to the office's authority under
7555 Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections
7556 identified in this section are complete sentences and accurately reflect the office's perception of
7557 the Legislature's intent.

7558 Section 110. Section 63I-2-262 is amended to read:

7559 **63I-2-262. Repeal dates -- Title 62A.**

7560 [~~(1) Section 62A-1-111.5 is repealed July 1, 2018.~~]

7561 [(2)] Subsection 62A-5-103.1(6) is repealed January 1, 2023.

7562 [~~(3) Subsection 62A-15-1101(6) is repealed January 1, 2019.~~]

7563 [~~(4) Section 62A-15-1102 is repealed January 1, 2019.~~]

7564 Section 111. Section 63I-2-272 is amended to read:

7565 **63I-2-272. Repeal dates -- Title 72.**

7566 (1) On July 1, 2018:

7567 (a) in Subsection ~~72-2-108~~(2), the language that states "and except as provided in
7568 Subsection (10)" is repealed; and

7569 (b) in Subsection ~~72-2-108~~(4)(c)(ii)(A), the language that states ", excluding any
7570 amounts appropriated as additional support for class B and class C roads under Subsection
7571 (10)," is repealed[~~;~~and].

7572 [~~(c) Subsection 72-2-108(10) is repealed.~~]

7573 (2) Section ~~72-3-113~~ is repealed January 1, 2020.

7574 [~~(3) Section 72-15-101 is repealed on March 31, 2018.~~]

7575 Section 112. Section **63J-1-201** is amended to read:

7576 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**
7577 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

7578 (1) The governor shall deliver, not later than 30 days before the date the Legislature
7579 convenes in the annual general session, a confidential draft copy of the governor's proposed
7580 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
7581 requirements of this section.

7582 (2) (a) When submitting a proposed budget, the governor shall, within the first three
7583 days of the annual general session of the Legislature, submit to the presiding officer of each
7584 house of the Legislature:

7585 (i) a proposed budget for the ensuing fiscal year;

7586 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
7587 with each change clearly itemized and classified; and

7588 (iii) as applicable, a document showing proposed changes in estimated revenues that
7589 are based on changes in state tax laws or rates.

7590 (b) The proposed budget shall include:

7591 (i) a projection of:

7592 (A) estimated revenues by major tax type;

7593 (B) 15-year trends for each major tax type;

7594 (C) estimated receipts of federal funds;

7595 (D) 15-year trends for federal fund receipts; and

- 7596 (E) appropriations for the next fiscal year;
- 7597 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
7598 federal grants or assistance programs included in the budget;
- 7599 (iii) changes to debt service;
- 7600 (iv) a plan of proposed changes to appropriations and estimated revenues for the next
7601 fiscal year that is based upon the current fiscal year state tax laws and rates and considers
7602 projected changes in federal grants or assistance programs included in the budget;
- 7603 (v) an itemized estimate of the proposed changes to appropriations for:
- 7604 (A) the Legislative Department as certified to the governor by the president of the
7605 Senate and the speaker of the House;
- 7606 (B) the Executive Department;
- 7607 (C) the Judicial Department as certified to the governor by the state court
7608 administrator;
- 7609 (D) changes to salaries payable by the state under the Utah Constitution or under law
7610 for lease agreements planned for the next fiscal year; and
- 7611 (E) all other changes to ongoing or one-time appropriations, including dedicated
7612 credits, restricted funds, nonlapsing balances, grants, and federal funds;
- 7613 (vi) for each line item, the average annual dollar amount of staff funding associated
7614 with all positions that were vacant during the last fiscal year;
- 7615 (vii) deficits or anticipated deficits;
- 7616 (viii) the recommendations for each state agency for new full-time employees for the
7617 next fiscal year, which shall also be provided to the State Building Board as required by
7618 Subsection [63A-5-103](#)~~(3)~~(5);
- 7619 (ix) a written description and itemized report submitted by a state agency to the
7620 Governor's Office of Management and Budget under Section [63J-1-220](#), including:
- 7621 (A) a written description and an itemized report provided at least annually detailing the
7622 expenditure of the state money, or the intended expenditure of any state money that has not
7623 been spent; and
- 7624 (B) a final written itemized report when all the state money is spent;
- 7625 (x) any explanation that the governor may desire to make as to the important features
7626 of the budget and any suggestion as to methods for the reduction of expenditures or increase of

7627 the state's revenue; and

7628 (xi) information detailing certain fee increases as required by Section 63J-1-504.

7629 (3) For the purpose of preparing and reporting the proposed budget:

7630 (a) The governor shall require the proper state officials, including all public and higher
7631 education officials, all heads of executive and administrative departments and state institutions,
7632 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
7633 state money, and all institutions applying for state money and appropriations, to provide
7634 itemized estimates of changes in revenues and appropriations.

7635 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
7636 provide other information under these guidelines and at times as the governor may direct,
7637 which may include a requirement for program productivity and performance measures, where
7638 appropriate, with emphasis on outcome indicators.

7639 (c) The governor may require representatives of public and higher education, state
7640 departments and institutions, and other institutions or individuals applying for state
7641 appropriations to attend budget meetings.

7642 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of
7643 Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the
7644 Legislature convenes in the annual general session, data, analysis, or requests used in preparing
7645 the governor's budget recommendations, notwithstanding the restrictions imposed on such
7646 recommendations by available revenue.

7647 (b) The information under Subsection (4)(a) shall include:

7648 (i) actual revenues and expenditures for the fiscal year ending the previous June 30;

7649 (ii) estimated or authorized revenues and expenditures for the current fiscal year;

7650 (iii) requested revenues and expenditures for the next fiscal year;

7651 (iv) detailed explanations of any differences between the amounts appropriated by the
7652 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and
7653 (iii);

7654 (v) a statement of agency and program objectives, effectiveness measures, and program
7655 size indicators; and

7656 (vi) other budgetary information required by the Legislature in statute.

7657 (c) The budget information under Subsection (4)(a) shall cover:

7658 (i) all items of appropriation, funds, and accounts included in appropriations acts for
7659 the current and previous fiscal years; and

7660 (ii) any new appropriation, fund, or account items requested for the next fiscal year.

7661 (d) The information provided under Subsection (4)(a) may be provided as a shared
7662 record under Section 63G-2-206 as considered necessary by the Governor's Office of
7663 Management and Budget.

7664 (5) (a) In submitting the budget for the Department of Public Safety, the governor shall
7665 include a separate recommendation in the governor's budget for maintaining a sufficient
7666 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to
7667 or below the number specified in Subsection 32B-1-201(2).

7668 (b) If the governor does not include in the governor's budget an amount sufficient to
7669 maintain the number of alcohol-related law enforcement officers described in Subsection
7670 (5)(a), the governor shall include a message to the Legislature regarding the governor's reason
7671 for not including that amount.

7672 (6) (a) The governor may revise all estimates, except those relating to the Legislative
7673 Department, the Judicial Department, and those providing for the payment of principal and
7674 interest to the state debt and for the salaries and expenditures specified by the Utah
7675 Constitution or under the laws of the state.

7676 (b) The estimate for the Judicial Department, as certified by the state court
7677 administrator, shall also be included in the budget without revision, but the governor may make
7678 separate recommendations on the estimate.

7679 (7) The total appropriations requested for expenditures authorized by the budget may
7680 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
7681 fiscal year.

7682 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
7683 does not affect the budget itself or any other item in it.

7684 Section 113. Section 63J-1-220 is amended to read:

7685 **63J-1-220. Reporting related to pass through money distributed by state**
7686 **agencies.**

7687 (1) As used in this section:

7688 (a) "Local government entity" means a county, municipality, school district, local

7689 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special
7690 service district under Title 17D, Chapter 1, Special Service District Act, or any other political
7691 subdivision of the state.

7692 (b) (i) "Pass through funding" means money appropriated by the Legislature to a state
7693 agency that is intended to be passed through the state agency to one or more:

7694 (A) local government entities;

7695 (B) private organizations, including not-for-profit organizations; or

7696 (C) persons in the form of a loan or grant.

7697 (ii) "Pass through funding" may be:

7698 (A) general funds, dedicated credits, or any combination of state funding sources; and

7699 (B) ongoing or one-time.

7700 (c) "Recipient entity" means a local government entity or private entity, including a
7701 nonprofit entity, that receives money by way of pass through funding from a state agency.

7702 (d) "State agency" means a department, commission, board, council, agency,
7703 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
7704 unit, bureau, panel, or other administrative unit of the executive branch of the state.

7705 (e) (i) "State money" means money that is owned, held, or administered by a state
7706 agency and derived from state fees or tax revenues.

7707 (ii) "State money" does not include contributions or donations received by a state
7708 agency.

7709 (2) A state agency may not provide a recipient entity state money through pass through
7710 funding unless:

7711 (a) the state agency enters into a written agreement with the recipient entity; and

7712 (b) the written agreement described in Subsection (2)(a) requires the recipient entity to
7713 provide the state agency:

7714 (i) a written description and an itemized report at least annually detailing the
7715 expenditure of the state money, or the intended expenditure of any state money that has not
7716 been spent; and

7717 (ii) a final written itemized report when all the state money is spent.

7718 (3) A state agency shall provide to the Governor's Office of Management and Budget a
7719 copy of a written description or itemized report received by the state agency under Subsection

- 7720 (2).
- 7721 (4) Notwithstanding Subsection (2), a state agency is not required to comply with this
- 7722 section to the extent that the pass through funding is issued:
- 7723 (a) under a competitive award process;
- 7724 (b) in accordance with a formula enacted in statute;
- 7725 (c) in accordance with a state program under parameters in statute or rule that guides
- 7726 the distribution of the pass through funding; or
- 7727 (d) under the authority of the minimum school program, as defined in [~~Subsection~~
- 7728 ~~53F-2-102(7)(e)] Section 53F-2-102.~~
- 7729 Section 114. Section **63J-1-602.1** is amended to read:
- 7730 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**
- 7731 Appropriations made from the following accounts or funds are nonlapsing:
- 7732 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
- 7733 and Leadership Restricted Account created in Section 4-42-102.
- 7734 (2) The Native American Repatriation Restricted Account created in Section 9-9-407.
- 7735 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
- 7736 Section 9-18-102.
- 7737 (4) The National Professional Men's Soccer Team Support of Building Communities
- 7738 Restricted Account created in Section 9-19-102.
- 7739 (5) Funds collected for directing and administering the C-PACE district created in
- 7740 Section 11-42a-302.
- 7741 (6) The "Support for State-Owned Shooting Ranges Restricted Account" created in
- 7742 Section 23-14-13.5.
- 7743 [~~(6)~~] (7) Award money under the State Asset Forfeiture Grant Program, as provided
- 7744 under Section 24-4-117.
- 7745 [~~(7)~~] (8) Funds collected from the program fund for local health department expenses
- 7746 incurred in responding to a local health emergency under Section 26-1-38.
- 7747 [~~(8)~~] (9) Funds collected from the emergency medical services grant program, as
- 7748 provided in Section 26-8a-207.
- 7749 [~~(9)~~] ~~The Prostate Cancer Support Restricted Account created in Section 26-21a-303.~~
- 7750 (10) The Children with Cancer Support Restricted Account created in Section

- 7751 [26-21a-304](#).
- 7752 (11) State funds for matching federal funds in the Children's Health Insurance Program
7753 as provided in Section [26-40-108](#).
- 7754 (12) The Children with Heart Disease Support Restricted Account created in Section
7755 [26-58-102](#).
- 7756 (13) The Nurse Home Visiting Restricted Account created in Section [~~26-62-601~~]
7757 [26-63-601](#).
- 7758 (14) The Technology Development Restricted Account created in Section [31A-3-104](#).
- 7759 (15) The Criminal Background Check Restricted Account created in Section
7760 [31A-3-105](#).
- 7761 (16) The Captive Insurance Restricted Account created in Section [31A-3-304](#), except
7762 to the extent that Section [31A-3-304](#) makes the money received under that section free revenue.
- 7763 (17) The Title Licensee Enforcement Restricted Account created in Section
7764 [31A-23a-415](#).
- 7765 (18) The Health Insurance Actuarial Review Restricted Account created in Section
7766 [31A-30-115](#).
- 7767 (19) The Insurance Fraud Investigation Restricted Account created in Section
7768 [31A-31-108](#).
- 7769 (20) The Underage Drinking Prevention Media and Education Campaign Restricted
7770 Account created in Section [32B-2-306](#).
- 7771 (21) The School Readiness Restricted Account created in Section [35A-3-210](#).
- 7772 (22) The Youth Development Organization Restricted Account created in Section
7773 [35A-8-1903](#).
- 7774 (23) The Youth Character Organization Restricted Account created in Section
7775 [35A-8-2003](#).
- 7776 (24) Money received by the Utah State Office of Rehabilitation for the sale of certain
7777 products or services, as provided in Section [35A-13-202](#).
- 7778 (25) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).
- 7779 (26) The Electronic Payment Fee Restricted Account created by Section [41-1a-121](#) to
7780 the Motor Vehicle Division.
- 7781 (27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account

7782 created by Section 41-3-110 to the State Tax Commission.

7783 (28) The Utah Law Enforcement Memorial Support Restricted Account created in
7784 Section 53-1-120.

7785 (29) The State Disaster Recovery Restricted Account to the Division of Emergency
7786 Management, as provided in Section 53-2a-603.

7787 (30) The Department of Public Safety Restricted Account to the Department of Public
7788 Safety, as provided in Section 53-3-106.

7789 (31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
7790 53-8-303.

7791 (32) The DNA Specimen Restricted Account created in Section 53-10-407.

7792 (33) The Canine Body Armor Restricted Account created in Section 53-16-201.

7793 (34) A certain portion of money collected for administrative costs under the School
7794 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

7795 (35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5,
7796 subject to Subsection 54-5-1.5(4)(d).

7797 (36) Certain fines collected by the Division of Occupational and Professional Licensing
7798 for violation of unlawful or unprofessional conduct that are used for education and enforcement
7799 purposes, as provided in Section 58-17b-505.

7800 (37) Certain fines collected by the Division of Occupational and Professional Licensing
7801 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
7802 Section 58-63-103.

7803 (38) The Relative Value Study Restricted Account created in Section 59-9-105.

7804 (39) The Cigarette Tax Restricted Account created in Section 59-14-204.

7805 (40) Funds paid to the Division of Real Estate for the cost of a criminal background
7806 check for a mortgage loan license, as provided in Section 61-2c-202.

7807 (41) Funds paid to the Division of Real Estate for the cost of a criminal background
7808 check for principal broker, associate broker, and sales agent licenses, as provided in Section
7809 61-2f-204.

7810 (42) Certain funds donated to the Department of Human Services, as provided in
7811 Section 62A-1-111.

7812 (43) The National Professional Men's Basketball Team Support of Women and

- 7813 Children Issues Restricted Account created in Section [62A-1-202](#).
- 7814 (44) Certain funds donated to the Division of Child and Family Services, as provided
7815 in Section [62A-4a-110](#).
- 7816 (45) The Choose Life Adoption Support Restricted Account created in Section
7817 [62A-4a-608](#).
- 7818 (46) Funds collected by the Office of Administrative Rules for publishing, as provided
7819 in Section [63G-3-402](#).
- 7820 (47) The Immigration Act Restricted Account created in Section [63G-12-103](#).
- 7821 (48) Money received by the military installation development authority, as provided in
7822 Section [63H-1-504](#).
- 7823 (49) The Computer Aided Dispatch Restricted Account created in Section [63H-7a-303](#).
- 7824 (50) The Unified Statewide 911 Emergency Service Account created in Section
7825 [63H-7a-304](#).
- 7826 (51) The Utah Statewide Radio System Restricted Account created in Section
7827 [63H-7a-403](#).
- 7828 (52) The Employability to Careers Program Restricted Account created in Section
7829 [63J-4-703](#).
- 7830 (53) The Motion Picture Incentive Account created in Section [63N-8-103](#).
- 7831 (54) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,
7832 as provided under Section [63N-10-301](#).
- 7833 (55) Funds collected by the housing of state probationary inmates or state parole
7834 inmates, as provided in Subsection [64-13e-104\(2\)](#).
- 7835 (56) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
7836 and State Lands, as provided in Section [65A-8-103](#).
- 7837 (57) Certain funds received by the Office of the State Engineer for well drilling fines or
7838 bonds, as provided in Section [73-3-25](#).
- 7839 (58) The Water Resources Conservation and Development Fund, as provided in
7840 Section [73-23-2](#).
- 7841 (59) Funds donated or paid to a juvenile court by private sources, as provided in
7842 Subsection [78A-6-203\(1\)\(c\)](#).
- 7843 (60) Fees for certificate of admission created under Section [78A-9-102](#).

7844 (61) Funds collected for adoption document access as provided in Sections 78B-6-141,
7845 78B-6-144, and 78B-6-144.5.

7846 (62) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
7847 Park, Jordan River State Park, and Green River State Park, as provided under Section
7848 79-4-403.

7849 (63) Certain funds received by the Division of Parks and Recreation from the sale or
7850 disposal of buffalo, as provided under Section 79-4-1001.

7851 (64) Funds collected for indigent defense as provided in Title 77, Chapter 32, Part 8,
7852 Utah Indigent Defense Commission.

7853 Section 115. Section **63J-1-602.2** is amended to read:

7854 **63J-1-602.2. List of nonlapsing appropriations to programs.**

7855 Appropriations made to the following programs are nonlapsing:

7856 (1) The Legislature and its committees.

7857 (2) The Percent-for-Art Program created in Section 9-6-404.

7858 (3) The LeRay McAllister Critical Land Conservation Program created in Section
7859 11-38-301.

7860 (4) Dedicated credits accrued to the Utah Marriage Commission as provided under
7861 Subsection 17-16-21(2)(d)(ii).

7862 (5) The Division of Wildlife Resources for the appraisal and purchase of lands under
7863 the Pelican Management Act, as provided in Section 23-21a-6.

7864 (6) The primary care grant program created in Section 26-10b-102.

7865 (7) Sanctions collected as dedicated credits from Medicaid provider under Subsection
7866 26-18-3(7).

7867 (8) The Utah Health Care Workforce Financial Assistance Program created in Section
7868 26-46-102.

7869 (9) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

7870 (10) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

7871 (11) Funds that the Department of Alcoholic Beverage Control retains in accordance
7872 with Subsection 32B-2-301(7)(a)[(ii)] or (b).

7873 (12) The General Assistance program administered by the Department of Workforce
7874 Services, as provided in Section 35A-3-401.

- 7875 (13) A new program or agency that is designated as nonlapsing under Section
7876 [36-24-101](#).
- 7877 (14) The Utah National Guard, created in Title 39, Militia and Armories.
- 7878 (15) The State Tax Commission under Section [41-1a-1201](#) for the:
- 7879 (a) purchase and distribution of license plates and decals; and
- 7880 (b) administration and enforcement of motor vehicle registration requirements.
- 7881 (16) The Search and Rescue Financial Assistance Program, as provided in Section
7882 [53-2a-1102](#).
- 7883 (17) The Motorcycle Rider Education Program, as provided in Section [53-3-905](#).
- 7884 (18) The State Board of Regents for teacher preparation programs, as provided in
7885 Section [53B-6-104](#).
- 7886 (19) The Medical Education Program administered by the Medical Education Council,
7887 as provided in Section [53B-24-202](#).
- 7888 (20) The State Board of Education, as provided in Section [53F-2-205](#).
- 7889 (21) The Division of Services for People with Disabilities, as provided in Section
7890 [62A-5-102](#).
- 7891 (22) The Division of Fleet Operations for the purpose of upgrading underground
7892 storage tanks under Section [63A-9-401](#).
- 7893 (23) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).
- 7894 (24) Appropriations to the Department of Technology Services for technology
7895 innovation as provided under Section [63F-4-202](#).
- 7896 (25) The Office of Administrative Rules for publishing, as provided in Section
7897 [63G-3-402](#).
- 7898 (26) The Utah Science Technology and Research Initiative created in Section
7899 [63M-2-301](#).
- 7900 (27) The Governor's Office of Economic Development to fund the Enterprise Zone
7901 Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 7902 (28) Appropriations to fund the Governor's Office of Economic Development's Rural
7903 Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
7904 Employment Expansion Program.
- 7905 (29) The Department of Human Resource Management user training program, as

7906 provided in Section [67-19-6](#).

7907 ~~[(30) The University of Utah Poison Control Center program, as provided in Section~~
7908 ~~[69-2-5.5](#).]~~

7909 ~~[(31)]~~ (30) A public safety answering point's emergency telecommunications service
7910 fund, as provided in Section [69-2-301](#).

7911 ~~[(32)]~~ (31) The Traffic Noise Abatement Program created in Section [72-6-112](#).

7912 ~~[(33)]~~ (32) The Judicial Council for compensation for special prosecutors, as provided
7913 in Section [77-10a-19](#).

7914 ~~[(34)]~~ (33) A state rehabilitative employment program, as provided in Section
7915 [78A-6-210](#).

7916 ~~[(35)]~~ (34) The Utah Geological Survey, as provided in Section [79-3-401](#).

7917 ~~[(36)]~~ (35) The Bonneville Shoreline Trail Program created under Section [79-5-503](#).

7918 ~~[(37)]~~ (36) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#),
7919 and [78B-6-144.5](#).

7920 ~~[(38)]~~ (37) Indigent defense as provided in Title 77, Chapter 32, Part 8, Utah Indigent
7921 Defense Commission.

7922 Section 116. Section **63J-1-801** is amended to read:

7923 **63J-1-801. Definitions.**

7924 As used in this part:

7925 (1) "Committee" means the Homeless Coordinating Committee created in Section
7926 [35A-8-601](#).

7927 (2) "Eligible municipality" means a city of the third, fourth, or fifth class, a town, or a
7928 metro township that:

7929 (a) has, or is proposed to have, a homeless shelter within the city's, town's, or metro
7930 township's geographic boundaries that:

7931 (i) provides or is proposed to provide temporary shelter to homeless individuals;

7932 (ii) has or is proposed to have the capacity to provide temporary shelter to at least 200
7933 individuals per night; and

7934 (iii) operates year-round and is not subject to restrictions that limit the hours, days,
7935 weeks, or months of operation; and

7936 (b) due to the location of a homeless shelter within the city's, town's, or metro

7937 township's geographic boundaries, needs more public safety services than the city, town, or
7938 metro township needed before the location of the homeless shelter within the city's, town's, or
7939 metro township's geographic boundaries.

7940 (3) "Grant eligible entity" means:

7941 (a) the Department of Public Safety; or

7942 (b) a city, town, or metro township that has:

7943 (i) a homeless shelter within the city's, town's, or metro township's geographic
7944 boundaries that:

7945 (A) provides temporary shelter to homeless individuals;

7946 (B) has the capacity to provide temporary shelter to at least 60 individuals per night;

7947 and

7948 (C) operates year-round and is not subject to restrictions that limit the hours, days,
7949 weeks, or months of operation; and

7950 (ii) increased community, social service, [~~and~~] or public safety service needs due to the
7951 location of a homeless shelter within the city's, town's, or metro township's geographic
7952 boundaries.

7953 Section 117. Section **63M-7-210** is amended to read:

7954 **63M-7-210. Pilot program of competency-based career and technical education**
7955 **grants.**

7956 (1) As used in this section:

7957 (a) "Certificate program provider" means a technical college that provides
7958 competency-based career and technical education.

7959 (b) "Commission" means the State Commission on Criminal and Juvenile Justice.

7960 (c) (i) "Competency-based career and technical education" means career and technical
7961 education that will result in appropriate licensing, certification, or other evidence of completion
7962 of training and qualification for specific employment.

7963 (ii) "Competency-based career and technical education" includes services provided
7964 under Section [53B-2a-106](#).

7965 (d) "Qualifying education program" means a program overseen by a city or county
7966 prosecutor office to provide for an individual obtaining:

7967 (i) a high school diploma or a Utah high school completion diploma as defined by rule

7968 made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah
7969 Administrative Rulemaking Act; or

7970 (ii) competency-based career and technical education.

7971 [~~(e)~~ "Service area" means the area listed in Section ~~53B-2a-105~~ for a technical college.]

7972 [~~(f)~~ (e) "Technical college" means the same as that term is defined in Section
7973 ~~53B-1-101.5~~.

7974 (2) In accordance with this section, the commission shall establish a pilot grant
7975 program for fiscal year 2019 that funds the costs of two employees who:

7976 (a) are located in different prosecutor offices that operate in areas that have proximity
7977 to a technical college; and

7978 (b) oversee a program that provides for participation in a qualifying education program
7979 by an individual who is convicted of, pleads guilty to, or pleads no contest to a misdemeanor or
7980 third degree felony:

7981 (i) as an alternative to incarceration;

7982 (ii) for a reduction of fines or court fees;

7983 (iii) for a two-step conviction reduction under Section ~~76-3-402~~; or

7984 (iv) for a combination of the actions described in Subsections (2)(b)(i) through (iii).

7985 (3) As a condition of participating in a qualifying education program under this section,
7986 an individual shall:

7987 (a) comply with the requirements of the plea agreement entered into by the individual,
7988 the prosecutor, and the court; and

7989 (b) work with a financial aid officer for a qualifying education program and pay the
7990 tuition for the competency-based career and technical education charged by the certificate
7991 program provider.

7992 (4) The commission will structure and administer the grant pilot program consistent
7993 with other grant program requirements that the commission administers.

7994 (5) The commission shall compile a report regarding this grant pilot program based on
7995 performance measures and provide the report by no later than November 30, 2020, to the Law
7996 Enforcement and Criminal Justice Interim Committee, and the related appropriations
7997 subcommittee.

7998 Section 118. Section ~~63N-2-503~~ is amended to read:

7999 **63N-2-503. Agreement for development of new convention hotel -- Convention**
8000 **incentive authorized -- Agreement requirements.**

8001 (1) The office, with the board's advice, may enter into an agreement with a qualified
8002 hotel owner or a host local government:

8003 (a) for the development of a qualified hotel; and

8004 (b) to authorize a convention incentive:

8005 (i) to the qualified hotel owner or host local government, but not both;

8006 (ii) for a period not to exceed the eligibility period;

8007 (iii) in the amount of new tax revenue, subject to Subsection (2) and notwithstanding
8008 any other restriction provided by law;

8009 (iv) if:

8010 (A) the county in which the qualified hotel is proposed to be located has issued an
8011 endorsement letter endorsing the qualified hotel owner; and

8012 (B) all applicable requirements of this part and the agreement are met; and

8013 (v) that is reduced by \$1,900,000 per year during the first two years of the eligibility
8014 period, as described in Subsection (2)(c).

8015 (2) An agreement under Subsection (1) shall:

8016 (a) specify the requirements for the qualified hotel owner or host local government to
8017 qualify for a convention incentive;

8018 (b) require compliance with the terms of the endorsement letter issued by the county in
8019 which the qualified hotel is proposed to be located;

8020 (c) require the amount of certified claims for the first two years of the eligibility period
8021 to be reduced by \$1,900,000 per year;

8022 (d) with respect to the state portion of the convention incentive:

8023 (i) specify the maximum dollar amount that the qualified hotel owner or host local
8024 government may receive, subject to a maximum of:

8025 (A) for any calendar year, the amount of the state portion in that calendar year; and

8026 (B) \$75,000,000 in the aggregate for the qualified hotel owner or host local
8027 government during an eligibility period, calculated as though the two \$1,900,000 reductions of
8028 the tax credit amount under Subsection (1)(b)(iv) had not occurred; and

8029 (ii) specify the maximum percentage of the state portion that may be used in

8030 calculating the portion of the convention incentive that the qualified hotel owner or host local
8031 government may receive during the eligibility period for each calendar year and in the
8032 aggregate;

8033 (e) establish a shorter period of time than the period described in Subsection
8034 [63N-2-502](#)~~(5)~~(10)(a) during which the qualified hotel owner or host local government may
8035 claim the convention incentive or that the host agency may be paid incremental property tax
8036 revenue, if the office and qualified hotel owner or host local government agree to a shorter
8037 period of time;

8038 (f) require the qualified hotel owner to retain books and records supporting a claim for
8039 the convention incentive as required by Section [59-1-1406](#);

8040 (g) allow the transfer of the agreement to a third party if the third party assumes all
8041 liabilities and responsibilities in the agreement;

8042 (h) limit the expenditure of funds received under the convention incentive as provided
8043 in Section [63N-2-512](#); and

8044 (i) require the qualified hotel owner or host local government to submit to any audit
8045 and to provide any audit level attestation or other level of review the office considers
8046 appropriate for verification of any claim.

8047 (3) Notwithstanding any other provision of law, a county or city in which a qualified
8048 hotel is located may contribute property to the qualified hotel owner or host local government
8049 without consideration, to be used as provided in Subsection [63N-2-508](#)(3)(a).

8050 Section 119. Section [63N-2-504](#) is amended to read:

8051 **[63N-2-504. Independent review committee.](#)**

8052 (1) In accordance with rules adopted by the office under Section [63N-2-509](#), the board
8053 shall establish a separate, independent review committee to provide recommendations to the
8054 office regarding the terms and conditions of an agreement and to consult with the office as
8055 provided in this part or in rule.

8056 (2) The review committee shall consist of:

8057 (a) one member appointed by the executive director to represent the office;

8058 (b) two members appointed by the mayor or chief executive of the county in which the
8059 qualified hotel is located or proposed to be located;

8060 (c) two members appointed by:

8061 (i) the mayor of the municipality in which the qualified hotel is located or proposed to
8062 be located, if the qualified hotel is located or proposed to be located within the boundary of a
8063 municipality; or

8064 (ii) the mayor or chief executive of the county in which the qualified hotel is located or
8065 proposed to be located, in addition to the two members appointed under Subsection (2)(b), if
8066 the qualified hotel is located or proposed to be located outside the boundary of a municipality;

8067 (d) an individual representing the hotel industry, appointed by the Utah Hotel and
8068 Lodging Association;

8069 (e) an individual representing the commercial development and construction industry,
8070 appointed by the president or chief executive officer of the local chamber of commerce;

8071 (f) an individual representing the convention and meeting planners industry, appointed
8072 by the president or chief executive officer of the local convention and visitors bureau; and

8073 (g) one member appointed by the board.

8074 (3) (a) A member serves an indeterminate term and may be removed from the review
8075 committee by the appointing authority at any time.

8076 (b) A vacancy may be filled in the same manner as an appointment under Subsection
8077 (2).

8078 (4) A member of the review committee may not be paid for serving on the review
8079 committee and may not receive per diem or expense reimbursement.

8080 (5) The office shall provide any necessary staff support to the review committee.

8081 Section 120. Section **63N-4-404** is amended to read:

8082 **63N-4-404. Rural employment expansion grant application process.**

8083 (1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to
8084 receive a rural employment expansion grant as provided in this part shall provide the office
8085 with an application for a rural employment expansion grant in a form approved by the office
8086 that includes:

8087 (a) a certification, by an officer of the business entity, of each signature on the
8088 application;

8089 (b) a document that specifies the projected number and anticipated wage level of the
8090 new full-time employee positions that the business entity plans to create as the basis for
8091 qualifying for a rural employment expansion grant; and

- 8092 (c) any additional information required by the office.
- 8093 (2) (a) If, after review of an application provided by a business entity as described in
8094 Subsection (1), the office determines that the application is inadequate to provide a reasonable
8095 justification for authorizing the rural employment expansion grant, the office shall:
- 8096 (i) deny the application; or
- 8097 (ii) inform the business entity that the application is inadequate and ask the business
8098 entity to submit additional documentation.
- 8099 (b) (i) If the office denies an application, the business entity may appeal the denial to
8100 the office.
- 8101 (ii) The office shall review any appeal within 10 business days and make a final
8102 determination of the business entity's eligibility for a grant under this part.
- 8103 (3) If, after review of an application provided by a business entity as described in
8104 Subsection (1), the office determines that the application provides reasonable justification for
8105 authorizing a rural employment expansion grant and if there are available funds for the grant,
8106 the office shall enter into a written agreement with the business entity that:
- 8107 (a) indicates the maximum rural employment expansion grant amount the business
8108 entity is authorized to receive;
- 8109 (b) includes a document signed by an officer of the business entity that expressly
8110 directs and authorizes the State Tax Commission to disclose to the office the business entity's
8111 tax returns and other information that would otherwise be subject to confidentiality under
8112 Section 59-1-403 or Section 6103, Internal Revenue Code;
- 8113 (c) describes the documentation required to demonstrate that the business entity has
8114 created the new full-time employee positions described in the application provided under
8115 Subsection (1); and
- 8116 (d) specifies the deadlines to provide the documentation described in Subsection (3)(c).
- 8117 (4) (a) Subject to available funds, the office may award a rural employment expansion
8118 grant to a business entity as follows:
- 8119 (i) \$4,000 for each new full-time employee position in a county where the average
8120 county wage is equal to or greater than the state average wage;
- 8121 (ii) \$5,000 for each new full-time employee position in a county where the average
8122 county wage is between 85% and 99% of the state average wage; and

8123 (iii) \$6,000 for each new full-time employee position in a county where the average
8124 county wage is less than 85% of the state average wage.

8125 (b) A business entity may qualify for no more than \$25,000 in rural employment
8126 expansion grants in any fiscal year.

8127 (5) (a) Subject to available funds, the office shall award a business entity a grant in the
8128 amount allowed under this part if the business entity provides documentation to the office:

8129 (i) in a form prescribed by the office under Subsection (3)(c);

8130 (ii) before the deadline described in Subsection (3)(d); and

8131 (iii) that demonstrates that the business applicant has created new full-time employee
8132 positions.

8133 (b) If a business entity does not provide the documentation described in Subsection
8134 (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to
8135 receive a rural employment expansion grant unless the business entity submits a new
8136 application to be reviewed by the office in accordance with Subsection [~~63N-2-903~~] (1)[~~(a)~~].

8137 Section 121. Section **63N-6-202** is amended to read:

8138 **63N-6-202. Board members -- Meetings -- Expenses.**

8139 (1) (a) The board shall consist of the following five members:

8140 (i) the state treasurer;

8141 (ii) the executive director or the executive director's designee; and

8142 (iii) three members appointed by the governor and confirmed by the Senate.

8143 (b) The three members appointed by the governor shall serve four-year staggered terms
8144 with the initial terms of the first three members to be four years for one member, three years for
8145 one member, and two years for one member.

8146 (c) The governor shall appoint members of the board based on demonstrated expertise
8147 and competence in:

8148 (i) the supervision of investment managers;

8149 (ii) the fiduciary management of investment funds; or

8150 (iii) the management and administration of tax credit allocation programs.

8151 (2) When a vacancy occurs in the membership of the board for any reason, the vacancy
8152 shall be:

8153 (a) filled in the same manner as the appointment of the original member; and

8154 (b) for the unexpired term of the board member being replaced.

8155 (3) Appointed members of the board may not serve more than two full consecutive
8156 terms except when the governor determines that an additional term is in the best interest of the
8157 state.

8158 (4) (a) Four members of the board constitute a quorum for conducting business and
8159 exercising board power.

8160 (b) If a quorum is present, the action of a majority of members present is the action of
8161 the board.

8162 (5) A member may not receive compensation or benefits for the member's service, but
8163 may receive per diem and travel expenses in accordance with:

8164 (a) Section [63A-3-106](#);

8165 (b) Section [63A-3-107](#); and

8166 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

8167 (6) The board and its members are considered to be a governmental entity with all of
8168 the rights, privileges, and immunities of a governmental entity of the state, including all of the
8169 rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

8170 (7) Meetings of the board, except to the extent necessary to protect the information
8171 identified in Subsection [63N-6-412\(3\)](#), are subject to Title 52, Chapter 4, Open and Public
8172 Meetings Act.

8173 Section 122. Section **63N-7-301** is amended to read:

8174 **63N-7-301. Tourism Marketing Performance Account.**

8175 (1) There is created within the General Fund a restricted account known as the Tourism
8176 Marketing Performance Account.

8177 (2) The account shall be administered by GOED for the purposes listed in Subsection
8178 (5).

8179 (3) (a) The account shall earn interest.

8180 (b) All interest earned on account money shall be deposited into the account.

8181 (4) The account shall be funded by appropriations made to the account by the
8182 Legislature in accordance with this section.

8183 (5) The executive director shall use account money appropriated to GOED to pay for
8184 the statewide advertising, marketing, and branding campaign for promotion of the state as

8185 conducted by GOED.

8186 (6) (a) For each fiscal year beginning on or after July 1, 2007, GOED shall annually
8187 allocate 10% of the account money appropriated to GOED to a sports organization for
8188 advertising, marketing, branding, and promoting Utah in attracting sporting events into the
8189 state.

8190 (b) The sports organization shall:

8191 (i) provide an annual written report to GOED that gives an accounting of the use of
8192 money the sports organization receives under this Subsection (6); and

8193 (ii) partner with GOED to promote the state and to encourage economic growth in the
8194 state.

8195 (c) For purposes of this Subsection (6), "sports organization" means an organization
8196 that is:

8197 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
8198 Revenue Code; and

8199 (ii) created to foster national and international sports competitions in the state,
8200 including competitions related to Olympic sports, and to promote and encourage sports tourism
8201 throughout the state, including advertising, marketing, branding, and promoting Utah for the
8202 purpose of attracting, expanding, and retaining sporting events in the state.

8203 (7) Money deposited into the account shall include a legislative appropriation from the
8204 cumulative sales and use tax revenue increases described in Subsection (8), plus any additional
8205 appropriation made by the Legislature.

8206 (8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
8207 revenues determined under this Subsection (8) shall be certified by the State Tax Commission
8208 as a set-aside for the account, and the State Tax Commission shall report the amount of the
8209 set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance,
8210 which shall set aside the certified amount for appropriation to the account.

8211 (b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the
8212 set-aside under this Subsection (8) in each fiscal year by applying one of the following
8213 formulas: if the annual percentage change in the Consumer Price Index for All Urban
8214 Consumers, as published by the Bureau of Labor Statistics of the United States Department of
8215 Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

8216 (i) greater than 3%, and if the annual percentage change in the state sales and use tax
8217 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal
8218 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two
8219 years before the fiscal year in which the set-aside is to be made is greater than the annual
8220 percentage change in the Consumer Price Index for the fiscal year two years before the fiscal
8221 year in which the set-aside is to be made, then the difference between the annual percentage
8222 change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented
8223 goods and services and the annual percentage change in the Consumer Price Index shall be
8224 multiplied by an amount equal to the state sales and use tax revenues attributable to the retail
8225 sales of tourist-oriented goods and services from the fiscal year three years before the fiscal
8226 year in which the set-aside is to be made; or

8227 (ii) 3% or less, and if the annual percentage change in the state sales and use tax
8228 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal
8229 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two
8230 years before the fiscal year in which the set-aside is to be made is greater than 3%, then the
8231 difference between the annual percentage change in the state sales and use tax revenues
8232 attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied
8233 by an amount equal to the state sales and use tax revenues attributable to the retail sales of
8234 tourist-oriented goods and services from the fiscal year three years before the fiscal year in
8235 which the set-aside is to be made.

8236 (c) The total money appropriated to the account in a fiscal year under Subsections
8237 (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal
8238 year by more than \$3,000,000.

8239 (d) As used in this Subsection (8), "state sales and use tax revenues" are revenues
8240 collected under Subsections [59-12-103\(2\)\(a\)\(i\)\(A\)](#) and [59-12-103\(2\)\(c\)\(i\)](#).

8241 (e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services"
8242 are calculated by adding the following percentages of sales from each business registered with
8243 the State Tax Commission under one of the following codes of the 2012 North American
8244 Industry Classification System of the federal Executive Office of the President, Office of
8245 Management and Budget:

8246 (i) 80% of the sales from each business under NAICS Codes:

- 8247 (A) 532111 Passenger Car Rental;
- 8248 (B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;
- 8249 (C) 5615 Travel Arrangement and Reservation Services;
- 8250 (D) 7211 Traveler Accommodation; and
- 8251 (E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;
- 8252 (ii) 25% of the sales from each business under NAICS Codes:
- 8253 (A) 51213 Motion Picture and Video Exhibition;
- 8254 (B) 532292 Recreational Goods Rental;
- 8255 (C) 711 Performing Arts, Spectator Sports, and Related Industries;
- 8256 (D) 712 Museums, Historical Sites, and Similar Institutions; and
- 8257 (E) 713 Amusement, Gambling, and Recreation Industries;
- 8258 (iii) 20% of the sales from each business under NAICS Code 722 Food Services and
- 8259 Drinking Places;
- 8260 (iv) 18% of the sales from each business under NAICS Codes:
- 8261 (A) 447 Gasoline Stations; and
- 8262 (B) 81293 Parking Lots and Garages;
- 8263 (v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair
- 8264 and Maintenance; and
- 8265 (vi) 5% of the sales from each business under NAICS Codes:
- 8266 (A) 445 Food and Beverage Stores;
- 8267 (B) 446 Health and Personal Care Stores;
- 8268 (C) 448 Clothing and Clothing Accessories Stores;
- 8269 (D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;
- 8270 (E) 452 General Merchandise Stores; and
- 8271 (F) 453 Miscellaneous Store Retailers.
- 8272 Section 123. Section **75-6-401** is amended to read:
- 8273 **Part 4. Uniform Real Property Transfer on Death Act**
- 8274 **75-6-401. Title.**
- 8275 This [chapter] part is known as the "Uniform Real Property Transfer on Death Act."
- 8276 Section 124. Section **75-6-402** is amended to read:
- 8277 **75-6-402. Definitions.**

8278 As used in this [chapter] part:

8279 (1) "Beneficiary" means a person who receives property under a transfer on death deed.

8280 (2) "Class gift" means a transfer to a group of persons who are classified by their

8281 relationship to one another or the transferor, and who are not individually named in the

8282 transferring document.

8283 (3) "Designated beneficiary" means a person designated to receive property in a

8284 transfer on death deed.

8285 (4) "Individual" means a natural person.

8286 (5) (a) "Joint owner" means an individual who owns property concurrently with one or

8287 more other individuals with a right of survivorship.

8288 (b) "Joint owner" includes a joint tenant, owner of community property with a right of

8289 survivorship, and tenant by the entirety.

8290 (c) "Joint owner" does not include a tenant in common or owner of community

8291 property without a right of survivorship.

8292 (6) "Natural person" means a human being.

8293 (7) "Person" means an individual, corporation, business trust, estate, trust, partnership,

8294 limited liability company, association, joint venture, public corporation, government or

8295 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

8296 (8) "Property" means an interest in real property located in this state that is transferable

8297 on the death of the owner.

8298 (9) "Transfer on death deed" means a deed authorized under this [chapter] part.

8299 (10) "Transferor" means an individual, in their individual capacity, who makes a

8300 transfer on death deed.

8301 Section 125. Section **75-6-403** is amended to read:

8302 **75-6-403. Applicability.**

8303 This [chapter] part applies to a transfer on death deed made before, on, or after May 8,

8304 2018, by a transferor dying on or after May 8, 2018.

8305 Section 126. Section **75-6-404** is amended to read:

8306 **75-6-404. Nonexclusivity.**

8307 This [chapter] part does not affect any method of transferring property otherwise

8308 permitted under the law of this state.

8309 Section 127. Section **75-6-416** is amended to read:

8310 **75-6-416. Form of transfer on death deed.**

8311 The following form may be used to create a transfer on death deed. The other sections
8312 of this [~~chapter~~] part govern the effect of this or any other instrument used to create a transfer
8313 on death deed:

8314 (front of form)

8315 REVOCABLE TRANSFER ON DEATH DEED FORM

8316 NOTICE TO OWNER

8317 You should carefully read all information on the other side of this form. You May Want
8318 to Consult a Lawyer Before Using This Form.

8319 This form must be recorded before your death, or it will not be effective. The
8320 beneficiary must be a named person.

8321 IDENTIFYING INFORMATION

8322 Owner or Owners Making This Deed:

8323 _____

8324 Printed name Mailing address

8325 _____

8326 Printed name Mailing address

8327 Legal description of the property:

8328 _____

8329 PRIMARY BENEFICIARY

8330 I designate the following beneficiary if the beneficiary survives me:

8331 _____

8332 Printed name Mailing address, if available

8333 ALTERNATE BENEFICIARY – Optional

8334 If my primary beneficiary does not survive me, I designate the following alternate
8335 beneficiary if that beneficiary survives me:

8336 _____

8337 Printed name Mailing address, if available

8338 TRANSFER ON DEATH

8339 At my death, I transfer my interest in the described property to the beneficiaries as

8340 designated above.

8341 Before my death, I have the right to revoke this deed.

8342 SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

8343 _____ [(SEAL)] _____

8344 Signature Date

8345 _____ [(SEAL)] _____

8346 Signature Date

8347 ACKNOWLEDGMENT

8348 (insert acknowledgment for deed here)

8349 (back of form)

8350 COMMON QUESTIONS ABOUT THE USE OF THIS FORM

8351 Q. What does the Transfer on Death (TOD) deed do?

8352 A. When you die, this deed transfers the described property, subject to any liens or
8353 mortgages (or other encumbrances) on the property at your death. Probate is not required. The
8354 TOD deed has no effect until you die. You can revoke it at any time. You are also free to
8355 transfer the property to someone else during your lifetime. If you do not own any interest in the
8356 property when you die, this deed will have no effect.

8357 Q. How do I make a TOD deed?

8358 A. Complete this form. Have it acknowledged before a notary public or other individual
8359 authorized by law to take acknowledgments. Record the form in each county where any part of
8360 the property is located. The form has no effect unless it is acknowledged and recorded before
8361 your death.

8362 Q. Is the "legal description" of the property necessary?

8363 A. Yes.

8364 Q. How do I find the "legal description" of the property?

8365 A. This information may be on the deed you received when you became an owner of the
8366 property. This information may also be available in the office of the county recorder for the
8367 county where the property is located. If you are not absolutely sure, consult a lawyer.

8368 Q. Can I change my mind before I record the TOD deed?

8369 A. Yes. If you have not yet recorded the deed and want to change your mind, simply
8370 tear up or otherwise destroy the deed.

8371 Q. How do I "record" the TOD deed?

8372 A. Take the completed and acknowledged form to the office of the county recorder of
8373 the county where the property is located. Follow the instructions given by the county recorder
8374 to make the form part of the official property records. If the property is in more than one
8375 county, you should record the deed in each county.

8376 Q. Can I later revoke the TOD deed if I change my mind?

8377 A. Yes. The TOD deed is revocable. No one, including the beneficiaries, can prevent
8378 you from revoking the deed.

8379 Q. How do I revoke the TOD deed after it is recorded?

8380 A. There are three ways to revoke a recorded TOD deed: (1) Complete and
8381 acknowledge a revocation form, and record it in each county where the property is located. (2)
8382 Complete and acknowledge a new TOD deed that disposes of the same property, and record it
8383 in each county where the property is located. (3) Transfer the property to someone else during
8384 your lifetime by a recorded deed that expressly revokes the TOD deed. You may not revoke the
8385 TOD deed by will.

8386 Q. I am being pressured to complete this form. What should I do?

8387 A. Do not complete this form under pressure. Seek help from a trusted family member,
8388 a friend, or a lawyer.

8389 Q. Do I need to tell the beneficiaries about the TOD deed?

8390 A. No, but it is recommended. Secrecy can cause later complications and might make it
8391 easier for others to commit fraud.

8392 Q. If I sign a TOD deed and designate my two children as beneficiaries, and one of
8393 them dies before me, does the interest of my child that dies before me pass to his or her
8394 children?

8395 A. No. Everything will go to your surviving child unless you record a new transfer on
8396 death deed to state otherwise. If you have questions regarding how to word a new transfer on
8397 death deed, you are encouraged to consult a lawyer.

8398 Q. I have other questions about this form. What should I do?

8399 A. This form is designed to fit some but not all situations. If you have other questions,
8400 you are encouraged to consult a lawyer.

8401 Section 128. Section **75-6-417** is amended to read:

8402 **75-6-417. Optional form of revocation.**

8403 The following form may be used to create an instrument of revocation under this
8404 [chapter] part. The other sections of this [chapter] part govern the effect of this or any other
8405 instrument used to revoke a transfer on death deed.

8406 (front of form)

8407 **FULL REVOCATION OF TRANSFER ON DEATH DEED**

8408 **NOTICE TO OWNER**

8409 This revocation must be recorded before you die or it will not be effective. This
8410 revocation is effective only as to the interests in the property of owners who sign this
8411 revocation.

8412 **IDENTIFYING INFORMATION**

8413 Owner or Owners of Property Making This Revocation:

8414 _____

8415 Printed name Mailing address

8416 _____

8417 Printed name Mailing address

8418 Legal description of the property:

8419 _____

8420 **REVOCATION**

8421 I revoke all my previous transfers of this property by transfer on death deed.

8422 **SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION**

8423 _____ [(SEAL)] _____

8424 Signature Date

8425 _____ [(SEAL)] _____

8426 Signature Date

8427 **ACKNOWLEDGMENT**

8428 (insert acknowledgment here)

8429 (back of form)

8430 **COMMON QUESTIONS ABOUT THE USE OF THIS FORM**

8431 Q. How do I use this form to revoke a Transfer on Death (TOD) deed?

8432 A. Complete this form. Have it acknowledged before a notary public or other

8433 individual authorized to take acknowledgments. Record the form in the public records in the
8434 office of the county recorder of each county where the property is located. The form must be
8435 acknowledged and recorded before your death or it has no effect.

8436 Q. How do I find the "legal description" of the property?

8437 A. This information may be on the TOD deed. It may also be available in the office of
8438 the county recorder for the county where the property is located. If you are not absolutely sure,
8439 consult a lawyer.

8440 Q. How do I "record" the form?

8441 A. Take the completed and acknowledged form to the office of the county recorder of
8442 the county where the property is located. Follow the instructions given by the county recorder
8443 to make the form part of the official property records. If the property is located in more than
8444 one county, you should record the form in each of those counties.

8445 Q. I am being pressured to complete this form. What should I do?

8446 A. Do not complete this form under pressure. Seek help from a trusted family member,
8447 a friend, or a lawyer.

8448 Q. Can this form be used for a partial revocation of a previously filed TOD deed?

8449 A. No. This form is to be used for full revocation of a deed. In the case of a partial
8450 revocation, a new TOD deed must be filed.

8451 Q. I have other questions about this form. What should I do?

8452 A. This form is designed to fit some but not all situations. If you have other questions,
8453 consult a lawyer.

8454 Section 129. Section **75-6-419** is amended to read:

8455 **75-6-419. Relation to Electronic Signatures in Global and National Commerce**
8456 **Act.**

8457 This [~~chapter~~] part modifies, limits, and supersedes the federal Electronic Signatures in
8458 Global and National Commerce Act, 15 U.S.C. Sec. 7001, et seq., but does not modify, limit,
8459 or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery
8460 of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

8461 Section 130. Section **76-5-110** is amended to read:

8462 **76-5-110. Abuse or neglect of a child with a disability.**

8463 (1) As used in this section:

8464 (a) "Abuse" means:

8465 (i) inflicting physical injury, as that term is defined in Section 76-5-109;

8466 (ii) having the care or custody of a child with a disability, causing or permitting another
8467 to inflict physical injury, as that term is defined in Section 76-5-109; or

8468 (iii) unreasonable confinement.

8469 (b) "Caretaker" means:

8470 (i) any parent, legal guardian, or other person having under that person's care and
8471 custody a child with a disability; or

8472 (ii) any person, corporation, or public institution that has assumed by contract or court
8473 order the responsibility to provide food, shelter, clothing, medical, and other necessities to a
8474 child with a disability.

8475 (c) "Child with a disability" means any person under 18 years of age who is impaired
8476 because of mental illness, mental deficiency, physical illness or disability, or other cause, to the
8477 extent that the person is unable to care for the person's own personal safety or to provide
8478 necessities such as food, shelter, clothing, and medical care.

8479 (d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter,
8480 supervision, or medical care.

8481 (2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a child
8482 with a disability is guilty of a third degree felony.

8483 (3) (a) A parent or legal guardian who provides a child with treatment by spiritual
8484 means alone through prayer, in lieu of medical treatment, in accordance with the tenets and
8485 practices of an established church or religious denomination of which the parent or legal
8486 guardian is a member or adherent shall not, for that reason alone, be considered to be in
8487 violation under this section.

8488 (b) Subject to Subsection 78A-6-117(2)(~~tt~~)(m)(iii), the exception under Subsection
8489 (3)(a) does not preclude a court from ordering medical services from a physician licensed to
8490 engage in the practice of medicine to be provided to the child where there is substantial risk of
8491 harm to the child's health or welfare if the treatment is not provided.

8492 (c) A caretaker of a child with a disability does not violate this section by selecting a
8493 treatment option for a medical condition of a child with a disability, if the treatment option is
8494 one that a reasonable caretaker would believe to be in the best interest of the child with a

8495 disability.

8496 Section 131. Section **76-6-412** is amended to read:

8497 **76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

8498 (1) Theft of property and services as provided in this chapter is punishable:

8499 (a) as a second degree felony if the:

8500 (i) value of the property or services is or exceeds \$5,000;

8501 (ii) property stolen is a firearm or an operable motor vehicle; or

8502 (iii) property is stolen from the person of another;

8503 (b) as a third degree felony if:

8504 (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

8505 (ii) the value of the property or services is or exceeds \$500 and the actor has been twice

8506 before convicted of any of the following offenses, if each prior offense was committed within

8507 10 years of the date of the current conviction or the date of the offense upon which the current

8508 conviction is based and at least one of those convictions is for a class A misdemeanor:

8509 (A) any theft, any robbery, or any burglary with intent to commit theft;

8510 (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

8511 (C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

8512 (iii) in a case not amounting to a second degree felony, the property taken is a stallion,

8513 mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine,

8514 poultry, or a fur-bearing animal raised for commercial purposes; [or]

8515 (iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

8516 (B) the theft occurs on a property where the offender has committed any theft within

8517 the past five years; and

8518 (C) the offender has received written notice from the merchant prohibiting the offender

8519 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or

8520 (v) the actor has been previously convicted of a felony violation of any of the offenses

8521 listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);

8522 (c) as a class A misdemeanor if:

8523 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

8524 (ii) (A) the value of property or services is less than \$500;

8525 (B) the theft occurs on a property where the offender has committed any theft within

8526 the past five years; and

8527 (C) the offender has received written notice from the merchant prohibiting the offender
8528 from entering the property pursuant to Subsection 78B-3-108(4); or

8529 (iii) the actor has been twice before convicted of any of the offenses listed in
8530 Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10
8531 years of the date of the current conviction or the date of the offense upon which the current
8532 conviction is based; or

8533 (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and
8534 the theft is not an offense under Subsection (1)(c).

8535 (2) Any individual who violates Subsection 76-6-408(1) or Subsection 76-6-413(1), or
8536 commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three
8537 times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and
8538 reasonable attorney fees.

8539 Section 132. Section 77-41-102 is amended to read:

8540 **77-41-102. Definitions.**

8541 As used in this chapter:

8542 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
8543 Safety established in section 53-10-201.

8544 (2) "Business day" means a day on which state offices are open for regular business.

8545 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
8546 Identification showing that the offender has met the requirements of Section 77-41-112.

8547 (4) "Department" means the Department of Corrections.

8548 (5) "Division" means the Division of Juvenile Justice Services.

8549 (6) "Employed" or "carries on a vocation" includes employment that is full time or part
8550 time, whether financially compensated, volunteered, or for the purpose of government or
8551 educational benefit.

8552 (7) "Indian Country" means:

8553 (a) all land within the limits of any Indian reservation under the jurisdiction of the
8554 United States government, regardless of the issuance of any patent, and includes rights-of-way
8555 running through the reservation;

8556 (b) all dependent Indian communities within the borders of the United States whether

8557 within the original or subsequently acquired territory, and whether or not within the limits of a
8558 state; and

8559 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
8560 not been extinguished, including rights-of-way running through the allotments.

8561 (8) "Jurisdiction" means any state, Indian Country, United States Territory, or any
8562 property under the jurisdiction of the United States military, Canada, the United Kingdom,
8563 Australia, or New Zealand.

8564 (9) "Kidnap offender" means any person other than a natural parent of the victim who:

8565 (a) has been convicted in this state of a violation of:

8566 (i) Subsection 76-5-301(1)(c) or (d), kidnapping;

8567 (ii) Section 76-5-301.1, child kidnapping;

8568 (iii) Section 76-5-302, aggravated kidnapping;

8569 (iv) Section 76-5-310, aggravated human trafficking, on or after May 10, 2011; or

8570 (v) attempting, soliciting, or conspiring to commit any felony offense listed in

8571 Subsections (9)(a)(i) through (iv);

8572 (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to
8573 commit a crime in another jurisdiction, including any state, federal, or military court that is
8574 substantially equivalent to the offenses listed in Subsection (9)(a) and who is:

8575 (i) a Utah resident; or

8576 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of
8577 10 or more days, regardless of whether or not the offender intends to permanently reside in this
8578 state;

8579 (c) (i) is required to register as a kidnap offender in any other jurisdiction of original
8580 conviction, who is required to register as a kidnap offender by any state, federal, or military
8581 court, or who would be required to register as a kidnap offender if residing in the jurisdiction of
8582 the conviction regardless of the date of the conviction or any previous registration
8583 requirements; and

8584 (ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of
8585 whether or not the offender intends to permanently reside in this state;

8586 (d) is a nonresident regularly employed or working in this state, or who is a student in
8587 this state, and was convicted of one or more offenses listed in Subsection (9), or any

8588 substantially equivalent offense in another jurisdiction, or as a result of the conviction, is
8589 required to register in the person's state of residence;

8590 (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of
8591 one or more offenses listed in Subsection (9); or

8592 (f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a)
8593 and who has been committed to the division for secure confinement for that offense and
8594 remains in the division's custody 30 days prior to the person's 21st birthday.

8595 (10) "Natural parent" means a minor's biological or adoptive parent, and includes the
8596 minor's noncustodial parent.

8597 (11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender
8598 as defined in Subsection (17).

8599 (12) "Online identifier" or "Internet identifier":

8600 (a) means any electronic mail, chat, instant messenger, social networking, or similar
8601 name used for Internet communication; and

8602 (b) does not include date of birth, social security number, PIN number, or Internet
8603 passwords.

8604 (13) "Primary residence" means the location where the offender regularly resides, even
8605 if the offender intends to move to another location or return to another location at any future
8606 date.

8607 (14) "Register" means to comply with the requirements of this chapter and
8608 administrative rules of the department made under this chapter.

8609 (15) "Registration website" means the Sex and Kidnap Offender Notification and
8610 Registration website described in Section 77-41-110 and the information on the website.

8611 (16) "Secondary residence" means any real property that the offender owns or has a
8612 financial interest in, or any location where, in any 12-month period, the offender stays
8613 overnight a total of 10 or more nights when not staying at the offender's primary residence.

8614 (17) "Sex offender" means any person:

8615 (a) convicted in this state of:

8616 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

8617 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,

8618 2011;

- 8619 (iii) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;
- 8620 (iv) Section 76-5-401.1, sexual abuse of a minor, except under Subsection
- 8621 76-5-401.1(3)[(a)];
- 8622 (v) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- 8623 (vi) Section 76-5-402, rape;
- 8624 (vii) Section 76-5-402.1, rape of a child;
- 8625 (viii) Section 76-5-402.2, object rape;
- 8626 (ix) Section 76-5-402.3, object rape of a child;
- 8627 (x) a felony violation of Section 76-5-403, forcible sodomy;
- 8628 (xi) Section 76-5-403.1, sodomy on a child;
- 8629 (xii) Section 76-5-404, forcible sexual abuse;
- 8630 (xiii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
- 8631 (xiv) Section 76-5-405, aggravated sexual assault;
- 8632 (xv) Section 76-5-412, custodial sexual relations, when the person in custody is
- 8633 younger than 18 years of age, if the offense is committed on or after May 10, 2011;
- 8634 (xvi) Section 76-5b-201, sexual exploitation of a minor;
- 8635 (xvii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 8636 (xviii) Section 76-7-102, incest;
- 8637 (xix) Section 76-9-702, lewdness, if the person has been convicted of the offense four
- 8638 or more times;
- 8639 (xx) Section 76-9-702.1, sexual battery, if the person has been convicted of the offense
- 8640 four or more times;
- 8641 (xxi) any combination of convictions of Section 76-9-702, lewdness, and of Section
- 8642 76-9-702.1, sexual battery, that total four or more convictions;
- 8643 (xxii) Section 76-9-702.5, lewdness involving a child;
- 8644 (xxiii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 8645 (xxiv) Section 76-10-1306, aggravated exploitation of prostitution; or
- 8646 (xxv) attempting, soliciting, or conspiring to commit any felony offense listed in
- 8647 Subsection (17)(a);
- 8648 (b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
- 8649 commit a crime in another jurisdiction, including any state, federal, or military court that is

8650 substantially equivalent to the offenses listed in Subsection (17)(a) and who is:

8651 (i) a Utah resident; or

8652 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of
8653 10 or more days, regardless of whether the offender intends to permanently reside in this state;

8654 (c) (i) who is required to register as a sex offender in any other jurisdiction of original
8655 conviction, who is required to register as a sex offender by any state, federal, or military court,
8656 or who would be required to register as a sex offender if residing in the jurisdiction of the
8657 original conviction regardless of the date of the conviction or any previous registration
8658 requirements; and

8659 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
8660 regardless of whether or not the offender intends to permanently reside in this state;

8661 (d) who is a nonresident regularly employed or working in this state or who is a student
8662 in this state and was convicted of one or more offenses listed in Subsection (17)(a), or any
8663 substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required
8664 to register in the person's jurisdiction of residence;

8665 (e) who is found not guilty by reason of insanity in this state, or in any other
8666 jurisdiction of one or more offenses listed in Subsection (17)(a); or

8667 (f) who is adjudicated delinquent based on one or more offenses listed in Subsection
8668 (17)(a) and who has been committed to the division for secure confinement for that offense and
8669 remains in the division's custody 30 days prior to the person's 21st birthday.

8670 (18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,
8671 Driving Under the Influence and Reckless Driving.

8672 (19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
8673 any jurisdiction.

8674 Section 133. Section **78A-6-302** is amended to read:

8675 **78A-6-302. Court-ordered protective custody of a child following petition filing --**
8676 **Grounds.**

8677 (1) After a petition has been filed under Section **78A-6-304**, if the child who is the
8678 subject of the petition is not in the protective custody of the division, a court may order that the
8679 child be removed from the child's home or otherwise taken into protective custody if the court
8680 finds, by a preponderance of the evidence, that any one or more of the following circumstances

8681 exist:

8682 (a) (i) there is an imminent danger to the physical health or safety of the child; and

8683 (ii) the child's physical health or safety may not be protected without removing the
8684 child from the custody of the child's parent or guardian;

8685 (b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct
8686 that causes the child to suffer harm; and

8687 (ii) there are no less restrictive means available by which the child's emotional health
8688 may be protected without removing the child from the custody of the child's parent or guardian;

8689 (c) the child or another child residing in the same household has been, or is considered
8690 to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a
8691 parent or guardian, a member of the parent's or guardian's household, or other person known to
8692 the parent or guardian;

8693 (d) the parent or guardian is unwilling to have physical custody of the child;

8694 (e) the child is abandoned or left without any provision for the child's support;

8695 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
8696 or cannot arrange for safe and appropriate care for the child;

8697 (g) (i) a relative or other adult custodian with whom the child is left by the parent or
8698 guardian is unwilling or unable to provide care or support for the child;

8699 (ii) the whereabouts of the parent or guardian are unknown; and

8700 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;

8701 (h) subject to Subsections [78A-6-105](#)~~[(35)(c)]~~[\(36\)\(b\)\(i\)](#) through (iii) and [78A-6-117](#)(2)
8702 and Section [78A-6-301.5](#), the child is in immediate need of medical care;

8703 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an
8704 environment that poses a serious risk to the child's health or safety for which immediate
8705 remedial or preventive action is necessary; or

8706 (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose
8707 a threat to the child's health or safety;

8708 (j) the child or another child residing in the same household has been neglected;

8709 (k) the child's natural parent:

8710 (i) intentionally, knowingly, or recklessly causes the death of another parent of the
8711 child;

8712 (ii) is identified by a law enforcement agency as the primary suspect in an investigation
8713 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

8714 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or
8715 recklessly causing the death of another parent of the child;

8716 (l) an infant has been abandoned, as defined in Section [78A-6-316](#);

8717 (m) (i) the parent or guardian, or an adult residing in the same household as the parent
8718 or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab
8719 Act; and

8720 (ii) any clandestine laboratory operation was located in the residence or on the property
8721 where the child resided; or

8722 (n) the child's welfare is otherwise endangered.

8723 (2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as
8724 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency
8725 occurs involving the same substantiated abuser or under similar circumstance as the previous
8726 abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the
8727 custody of the child's parent.

8728 (b) For purposes of Subsection (1)(c):

8729 (i) another child residing in the same household may not be removed from the home
8730 unless that child is considered to be at substantial risk of being physically abused, sexually
8731 abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

8732 (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse,
8733 or sexual exploitation by a person known to the parent has occurred, and there is evidence that
8734 the parent or guardian failed to protect the child, after having received the notice, by allowing
8735 the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie
8736 evidence that the child is at substantial risk of being physically abused, sexually abused, or
8737 sexually exploited.

8738 (3) (a) For purposes of Subsection (1), if the division files a petition under Section
8739 [78A-6-304](#), the court shall consider the division's safety and risk assessments described in
8740 Section [62A-4a-203.1](#) to determine whether a child should be removed from the custody of the
8741 child's parent or guardian or should otherwise be taken into protective custody.

8742 (b) The division shall make a diligent effort to provide the safety and risk assessments

8743 described in Section [62A-4a-203.1](#) to the court, guardian ad litem, and counsel for the parent or
8744 guardian, as soon as practicable before the shelter hearing described in Section [78A-6-306](#).

8745 (4) In the absence of one of the factors described in Subsection (1), a court may not
8746 remove a child from the parent's or guardian's custody on the basis of:

8747 (a) educational neglect, truancy, or failure to comply with a court order to attend
8748 school;

8749 (b) mental illness or poverty of the parent or guardian; or

8750 (c) disability of the parent or guardian, as defined in Section [57-21-2](#).

8751 (5) A child removed from the custody of the child's parent or guardian under this
8752 section may not be placed or kept in a secure detention facility pending further court
8753 proceedings unless the child is detainable based on guidelines promulgated by the Division of
8754 Juvenile Justice Services.

8755 (6) This section does not preclude removal of a child from the child's home without a
8756 warrant or court order under Section [62A-4a-202.1](#).

8757 (7) (a) Except as provided in Subsection (7)(b), a court or the Division of Child and
8758 Family Services may not remove a child from the custody of the child's parent or guardian on
8759 the sole or primary basis that the parent or guardian refuses to consent to:

8760 (i) the administration of a psychotropic medication to a child;

8761 (ii) a psychiatric, psychological, or behavioral treatment for a child; or

8762 (iii) a psychiatric or behavioral health evaluation of a child.

8763 (b) Notwithstanding Subsection (7)(a), a court or the Division of Child and Family
8764 Services may remove a child under conditions that would otherwise be prohibited under
8765 Subsection (7)(a) if failure to take an action described under Subsection (7)(a) would present a
8766 serious, imminent risk to the child's physical safety or the physical safety of others.

8767 Section 134. Section [78A-6-306](#) is amended to read:

8768 **78A-6-306. Shelter hearing.**

8769 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays
8770 after any one or all of the following occur:

8771 (a) removal of the child from the child's home by the division;

8772 (b) placement of the child in the protective custody of the division;

8773 (c) emergency placement under Subsection [62A-4a-202.1](#)(4);

8774 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
8775 at the request of the division; or

8776 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under
8777 Subsection [78A-6-106\(4\)](#).

8778 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the
8779 division shall issue a notice that contains all of the following:

8780 (a) the name and address of the person to whom the notice is directed;

8781 (b) the date, time, and place of the shelter hearing;

8782 (c) the name of the child on whose behalf a petition is being brought;

8783 (d) a concise statement regarding:

8784 (i) the reasons for removal or other action of the division under Subsection (1); and

8785 (ii) the allegations and code sections under which the proceeding has been instituted;

8786 (e) a statement that the parent or guardian to whom notice is given, and the child, are

8787 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is

8788 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be

8789 provided in accordance with the provisions of Section [78A-6-1111](#); and

8790 (f) a statement that the parent or guardian is liable for the cost of support of the child in

8791 the protective custody, temporary custody, and custody of the division, and the cost for legal

8792 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial

8793 ability of the parent or guardian.

8794 (3) The notice described in Subsection (2) shall be personally served as soon as

8795 possible, but no later than one business day after removal of the child from the child's home, or

8796 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection

8797 [78A-6-106\(4\)](#), on:

8798 (a) the appropriate guardian ad litem; and

8799 (b) both parents and any guardian of the child, unless the parents or guardians cannot

8800 be located.

8801 (4) The following persons shall be present at the shelter hearing:

8802 (a) the child, unless it would be detrimental for the child;

8803 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or

8804 fail to appear in response to the notice;

- 8805 (c) counsel for the parents, if one is requested;
- 8806 (d) the child's guardian ad litem;
- 8807 (e) the caseworker from the division who is assigned to the case; and
- 8808 (f) the attorney from the attorney general's office who is representing the division.
- 8809 (5) (a) At the shelter hearing, the court shall:
- 8810 (i) provide an opportunity to provide relevant testimony to:
- 8811 (A) the child's parent or guardian, if present; and
- 8812 (B) any other person having relevant knowledge; and
- 8813 (ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.
- 8814 (b) The court:
- 8815 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
- 8816 Procedure;
- 8817 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
- 8818 the requesting party, or their counsel; and
- 8819 (iii) may in its discretion limit testimony and evidence to only that which goes to the
- 8820 issues of removal and the child's need for continued protection.
- 8821 (6) If the child is in the protective custody of the division, the division shall report to
- 8822 the court:
- 8823 (a) the reason why the child was removed from the parent's or guardian's custody;
- 8824 (b) any services provided to the child and the child's family in an effort to prevent
- 8825 removal;
- 8826 (c) the need, if any, for continued shelter;
- 8827 (d) the available services that could facilitate the return of the child to the custody of
- 8828 the child's parent or guardian; and
- 8829 (e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the
- 8830 child or friends of the child's parents may be able and willing to accept temporary placement of
- 8831 the child.
- 8832 (7) The court shall consider all relevant evidence provided by persons or entities
- 8833 authorized to present relevant evidence pursuant to this section.
- 8834 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
- 8835 cause shown, the court may grant no more than one continuance, not to exceed five judicial

8836 days.

8837 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for
8838 a continuance under Subsection (8)(a).

8839 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
8840 described in Subsection (2) within the time described in Subsection (3), the court may grant the
8841 request of a parent or guardian for a continuance, not to exceed five judicial days.

8842 (9) (a) If the child is in the protective custody of the division, the court shall order that
8843 the child be returned to the custody of the parent or guardian unless it finds, by a
8844 preponderance of the evidence, consistent with the protections and requirements provided in
8845 Subsection 62A-4a-201(1), that any one of the following exists:

8846 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
8847 safety of the child and the child's physical health or safety may not be protected without
8848 removing the child from the custody of the child's parent;

8849 (ii) (A) the child is suffering emotional damage that results in a serious impairment in
8850 the child's growth, development, behavior, or psychological functioning;

8851 (B) the parent or guardian is unwilling or unable to make reasonable changes that
8852 would sufficiently prevent future damage; and

8853 (C) there are no reasonable means available by which the child's emotional health may
8854 be protected without removing the child from the custody of the child's parent or guardian;

8855 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
8856 not removed from the custody of the child's parent or guardian;

8857 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
8858 household has been, or is considered to be at substantial risk of being, physically abused,
8859 sexually abused, or sexually exploited by a:

8860 (A) parent or guardian;

8861 (B) member of the parent's household or the guardian's household; or

8862 (C) person known to the parent or guardian;

8863 (v) the parent or guardian is unwilling to have physical custody of the child;

8864 (vi) the child is without any provision for the child's support;

8865 (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe
8866 and appropriate care for the child;

8867 (viii) (A) a relative or other adult custodian with whom the child is left by the parent or
8868 guardian is unwilling or unable to provide care or support for the child;
8869 (B) the whereabouts of the parent or guardian are unknown; and
8870 (C) reasonable efforts to locate the parent or guardian are unsuccessful;
8871 (ix) subject to Subsections 78A-6-105[(35)(c)](36)(b)(i) through (iii) and
8872 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;
8873 (x) (A) the physical environment or the fact that the child is left unattended beyond a
8874 reasonable period of time poses a threat to the child's health or safety; and
8875 (B) the parent or guardian is unwilling or unable to make reasonable changes that
8876 would remove the threat;
8877 (xi) (A) the child or a minor residing in the same household has been neglected; and
8878 (B) the parent or guardian is unwilling or unable to make reasonable changes that
8879 would prevent the neglect;
8880 (xii) the parent, guardian, or an adult residing in the same household as the parent or
8881 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act,
8882 and any clandestine laboratory operation was located in the residence or on the property where
8883 the child resided;
8884 (xiii) (A) the child's welfare is substantially endangered; and
8885 (B) the parent or guardian is unwilling or unable to make reasonable changes that
8886 would remove the danger; or
8887 (xiv) the child's natural parent:
8888 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
8889 child;
8890 (B) is identified by a law enforcement agency as the primary suspect in an investigation
8891 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
8892 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
8893 recklessly causing the death of another parent of the child.
8894 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
8895 established if:
8896 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
8897 involving the parent; and

8898 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

8899 (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly
8900 allowed the child to be in the physical care of a person after the parent received actual notice
8901 that the person physically abused, sexually abused, or sexually exploited the child, that fact
8902 constitutes prima facie evidence that there is a substantial risk that the child will be physically
8903 abused, sexually abused, or sexually exploited.

8904 (10) (a) (i) The court shall also make a determination on the record as to whether
8905 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
8906 child's home and whether there are available services that would prevent the need for continued
8907 removal.

8908 (ii) If the court finds that the child can be safely returned to the custody of the child's
8909 parent or guardian through the provision of those services, the court shall place the child with
8910 the child's parent or guardian and order that those services be provided by the division.

8911 (b) In making the determination described in Subsection (10)(a), and in ordering and
8912 providing services, the child's health, safety, and welfare shall be the paramount concern, in
8913 accordance with federal law.

8914 (11) Where the division's first contact with the family occurred during an emergency
8915 situation in which the child could not safely remain at home, the court shall make a finding that
8916 any lack of preplacement preventive efforts was appropriate.

8917 (12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
8918 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
8919 "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home,
8920 return a child to the child's home, provide reunification services, or attempt to rehabilitate the
8921 offending parent or parents.

8922 (13) The court may not order continued removal of a child solely on the basis of
8923 educational neglect as described in Subsection 78A-6-105[(35)](36)(b), truancy, or failure to
8924 comply with a court order to attend school.

8925 (14) (a) Whenever a court orders continued removal of a child under this section, the
8926 court shall state the facts on which that decision is based.

8927 (b) If no continued removal is ordered and the child is returned home, the court shall
8928 state the facts on which that decision is based.

8929 (15) If the court finds that continued removal and temporary custody are necessary for
8930 the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal
8931 regardless of:

- 8932 (a) any error in the initial removal of the child;
8933 (b) the failure of a party to comply with notice provisions; or
8934 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
8935 and Family Services.

8936 Section 135. Section 78A-6-312 is amended to read:

8937 **78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.**

8938 (1) The court may:

- 8939 (a) make any of the dispositions described in Section 78A-6-117;
8940 (b) place the minor in the custody or guardianship of any:
8941 (i) individual; or
8942 (ii) public or private entity or agency; or
8943 (c) order:
8944 (i) protective supervision;
8945 (ii) family preservation;
8946 (iii) subject to Subsections (12)(b), 78A-6-105[~~(35)(c)~~](36)(b)(i) through (iii), and
8947 78A-6-117(2) and Section 78A-6-301.5, medical or mental health treatment;
8948 (iv) sibling visitation; or
8949 (v) other services.

8950 (2) Whenever the court orders continued removal at the dispositional hearing, and that
8951 the minor remain in the custody of the division, the court shall first:

- 8952 (a) establish a primary permanency plan for the minor; and
8953 (b) determine whether, in view of the primary permanency plan, reunification services
8954 are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).

8955 (3) Subject to Subsections (6) and (7), if the court determines that reunification
8956 services are appropriate for the minor and the minor's family, the court shall provide for
8957 reasonable parent-time with the parent or parents from whose custody the minor was removed,
8958 unless parent-time is not in the best interest of the minor.

8959 (4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe

8960 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
8961 "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to
8962 attempt to rehabilitate the offending parent or parents.

8963 (5) In all cases, the minor's health, safety, and welfare shall be the court's paramount
8964 concern in determining whether reasonable efforts to reunify should be made.

8965 (6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless
8966 the court makes a finding that it is necessary to deny parent-time in order to:

8967 (a) protect the physical safety of the minor;

8968 (b) protect the life of the minor; or

8969 (c) prevent the minor from being traumatized by contact with the parent due to the
8970 minor's fear of the parent in light of the nature of the alleged abuse or neglect.

8971 (7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a
8972 parent's failure to:

8973 (a) prove that the parent has not used legal or illegal substances; or

8974 (b) comply with an aspect of the child and family plan that is ordered by the court.

8975 (8) (a) In addition to the primary permanency plan, the court shall establish a
8976 concurrent permanency plan that shall include:

8977 (i) a representative list of the conditions under which the primary permanency plan will
8978 be abandoned in favor of the concurrent permanency plan; and

8979 (ii) an explanation of the effect of abandoning or modifying the primary permanency
8980 plan.

8981 (b) In determining the primary permanency plan and concurrent permanency plan, the
8982 court shall consider:

8983 (i) the preference for kinship placement over nonkinship placement;

8984 (ii) the potential for a guardianship placement if the parent-child relationship is legally
8985 terminated and no appropriate adoption placement is available; and

8986 (iii) the use of an individualized permanency plan, only as a last resort.

8987 (9) A permanency hearing shall be conducted in accordance with Subsection

8988 [78A-6-314\(1\)\(b\)](#) within 30 days after the day on which the dispositional hearing ends if

8989 something other than reunification is initially established as a minor's primary permanency
8990 plan.

8991 (10) (a) The court may amend a minor's primary permanency plan before the
8992 establishment of a final permanency plan under Section 78A-6-314.

8993 (b) The court is not limited to the terms of the concurrent permanency plan in the event
8994 that the primary permanency plan is abandoned.

8995 (c) If, at any time, the court determines that reunification is no longer a minor's primary
8996 permanency plan, the court shall conduct a permanency hearing in accordance with Section
8997 78A-6-314 on or before the earlier of:

8998 (i) 30 days after the day on which the court makes the determination described in this
8999 Subsection (10)(c); or

9000 (ii) the day on which the provision of reunification services, described in Section
9001 78A-6-314, ends.

9002 (11) (a) If the court determines that reunification services are appropriate, the court
9003 shall order that the division make reasonable efforts to provide services to the minor and the
9004 minor's parent for the purpose of facilitating reunification of the family, for a specified period
9005 of time.

9006 (b) In providing the services described in Subsection (11)(a), the minor's health, safety,
9007 and welfare shall be the division's paramount concern, and the court shall so order.

9008 (12) (a) The court shall:

9009 (i) determine whether the services offered or provided by the division under the child
9010 and family plan constitute "reasonable efforts" on the part of the division;

9011 (ii) determine and define the responsibilities of the parent under the child and family
9012 plan in accordance with Subsection 62A-4a-205(6)(e); and

9013 (iii) identify verbally on the record, or in a written document provided to the parties,
9014 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future
9015 determination regarding the provision of reasonable efforts, in accordance with state and
9016 federal law.

9017 (b) If the parent is in a substance use disorder treatment program, other than a certified
9018 drug court program:

9019 (i) the court may order the parent to submit to supplementary drug or alcohol testing in
9020 addition to the testing recommended by the parent's substance use disorder program based on a
9021 finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

9022 (ii) the court may order the parent to provide the results of drug or alcohol testing
9023 recommended by the substance use disorder program to the court or division.

9024 (13) (a) The time period for reunification services may not exceed 12 months from the
9025 date that the minor was initially removed from the minor's home, unless the time period is
9026 extended under Subsection 78A-6-314(7).

9027 (b) Nothing in this section may be construed to entitle any parent to an entire 12
9028 months of reunification services.

9029 (14) (a) If reunification services are ordered, the court may terminate those services at
9030 any time.

9031 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined
9032 to be inconsistent with the final permanency plan for the minor established pursuant to Section
9033 78A-6-314, then measures shall be taken, in a timely manner, to:

9034 (i) place the minor in accordance with the permanency plan; and

9035 (ii) complete whatever steps are necessary to finalize the permanent placement of the
9036 minor.

9037 (15) Any physical custody of the minor by the parent or a relative during the period
9038 described in Subsections (11) through (14) does not interrupt the running of the period.

9039 (16) (a) If reunification services are ordered, a permanency hearing shall be conducted
9040 by the court in accordance with Section 78A-6-314 at the expiration of the time period for
9041 reunification services.

9042 (b) The permanency hearing shall be held no later than 12 months after the original
9043 removal of the minor.

9044 (c) If reunification services are not ordered, a permanency hearing shall be conducted
9045 within 30 days, in accordance with Section 78A-6-314.

9046 (17) With regard to a minor in the custody of the division whose parent or parents are
9047 ordered to receive reunification services but who have abandoned that minor for a period of six
9048 months from the date that reunification services were ordered:

9049 (a) the court shall terminate reunification services; and

9050 (b) the division shall petition the court for termination of parental rights.

9051 (18) When a court conducts a permanency hearing for a minor under Section
9052 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the

9053 sibling group together is:

9054 (a) practicable; and

9055 (b) in accordance with the best interest of the minor.

9056 (19) When a child is under the custody of the division and has been separated from a
9057 sibling due to foster care or adoptive placement, a court may order sibling visitation, subject to
9058 the division obtaining consent from the sibling's legal guardian, according to the court's
9059 determination of the best interests of the child for whom the hearing is held.

9060 (20) (a) Because of the state's interest in and responsibility to protect and provide
9061 permanency for minors who are abused, neglected, or dependent, the Legislature finds that a
9062 parent's interest in receiving reunification services is limited.

9063 (b) The court may determine that:

9064 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate,
9065 based on the individual circumstances; and

9066 (ii) reunification services should not be provided.

9067 (c) In determining "reasonable efforts" to be made with respect to a minor, and in
9068 making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount
9069 concern.

9070 (21) There is a presumption that reunification services should not be provided to a
9071 parent if the court finds, by clear and convincing evidence, that any of the following
9072 circumstances exist:

9073 (a) the whereabouts of the parents are unknown, based upon a verified affidavit
9074 indicating that a reasonably diligent search has failed to locate the parent;

9075 (b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such
9076 magnitude that it renders the parent incapable of utilizing reunification services;

9077 (c) the minor was previously adjudicated as an abused child due to physical abuse,
9078 sexual abuse, or sexual exploitation, and following the adjudication the minor:

9079 (i) was removed from the custody of the minor's parent;

9080 (ii) was subsequently returned to the custody of the parent; and

9081 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
9082 exploitation;

9083 (d) the parent:

- 9084 (i) caused the death of another minor through abuse or neglect;
- 9085 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
- 9086 (A) murder or manslaughter of a child; or
- 9087 (B) child abuse homicide;
- 9088 (iii) committed sexual abuse against the child;
- 9089 (iv) is a registered sex offender or required to register as a sex offender; or
- 9090 (v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the
- 9091 child;
- 9092 (B) is identified by a law enforcement agency as the primary suspect in an investigation
- 9093 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 9094 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 9095 recklessly causing the death of another parent of the child;
- 9096 (e) the minor suffered severe abuse by the parent or by any person known by the
- 9097 parent, if the parent knew or reasonably should have known that the person was abusing the
- 9098 minor;
- 9099 (f) the minor is adjudicated an abused child as a result of severe abuse by the parent,
- 9100 and the court finds that it would not benefit the minor to pursue reunification services with the
- 9101 offending parent;
- 9102 (g) the parent's rights are terminated with regard to any other minor;
- 9103 (h) the minor was removed from the minor's home on at least two previous occasions
- 9104 and reunification services were offered or provided to the family at those times;
- 9105 (i) the parent has abandoned the minor for a period of six months or longer;
- 9106 (j) the parent permitted the child to reside, on a permanent or temporary basis, at a
- 9107 location where the parent knew or should have known that a clandestine laboratory operation
- 9108 was located;
- 9109 (k) except as provided in Subsection (22)(b), with respect to a parent who is the child's
- 9110 birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was
- 9111 exposed to an illegal or prescription drug that was abused by the child's mother while the child
- 9112 was in utero, if the child was taken into division custody for that reason, unless the mother
- 9113 agrees to enroll in, is currently enrolled in, or has recently and successfully completed a
- 9114 substance use disorder treatment program approved by the department; or

9115 (l) any other circumstance that the court determines should preclude reunification
9116 efforts or services.

9117 (22) (a) The finding under Subsection (21)(b) shall be based on competent evidence
9118 from at least two medical or mental health professionals, who are not associates, establishing
9119 that, even with the provision of services, the parent is not likely to be capable of adequately
9120 caring for the minor within 12 months after the day on which the court finding is made.

9121 (b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under
9122 the circumstances of the case, that the substance use disorder treatment described in Subsection
9123 (21)(k) is not warranted.

9124 (23) In determining whether reunification services are appropriate, the court shall take
9125 into consideration:

9126 (a) failure of the parent to respond to previous services or comply with a previous child
9127 and family plan;

9128 (b) the fact that the minor was abused while the parent was under the influence of
9129 drugs or alcohol;

9130 (c) any history of violent behavior directed at the child or an immediate family
9131 member;

9132 (d) whether a parent continues to live with an individual who abused the minor;

9133 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

9134 (f) testimony by a competent professional that the parent's behavior is unlikely to be
9135 successful; and

9136 (g) whether the parent has expressed an interest in reunification with the minor.

9137 (24) (a) If reunification services are not ordered pursuant to Subsections (20) through
9138 (22), and the whereabouts of a parent become known within six months after the day on which
9139 the out-of-home placement of the minor is made, the court may order the division to provide
9140 reunification services.

9141 (b) The time limits described in Subsections (2) through (18) are not tolled by the
9142 parent's absence.

9143 (25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable
9144 services unless the court determines that those services would be detrimental to the minor.

9145 (b) In making the determination described in Subsection (25)(a), the court shall

9146 consider:

9147 (i) the age of the minor;

9148 (ii) the degree of parent-child bonding;

9149 (iii) the length of the sentence;

9150 (iv) the nature of the treatment;

9151 (v) the nature of the crime or illness;

9152 (vi) the degree of detriment to the minor if services are not offered;

9153 (vii) for a minor 10 years old or older, the minor's attitude toward the implementation

9154 of family reunification services; and

9155 (viii) any other appropriate factors.

9156 (c) Reunification services for an incarcerated parent are subject to the time limitations
9157 imposed in Subsections (2) through (18).

9158 (d) Reunification services for an institutionalized parent are subject to the time
9159 limitations imposed in Subsections (2) through (18), unless the court determines that continued
9160 reunification services would be in the minor's best interest.

9161 (26) If, pursuant to Subsections (21)(b) through (l), the court does not order
9162 reunification services, a permanency hearing shall be conducted within 30 days, in accordance
9163 with Section [78A-6-314](#).

9164 Section 136. Section **78A-6-1103** is amended to read:

9165 **78A-6-1103. Modification or termination of custody order or decree -- Grounds --**
9166 **Procedure.**

9167 (1) A parent or guardian of any child whose legal custody has been transferred by the
9168 court to an individual, agency, or institution, except a secure youth corrections facility, may
9169 petition the court for restoration of custody or other modification or revocation of the court's
9170 order, on the ground that a change of circumstances has occurred which requires such
9171 modification or revocation in the best interest of the child or the public.

9172 (2) The court shall make a preliminary investigation. If the court finds that the alleged
9173 change of circumstances, if proved, would not affect the decree, it may dismiss the petition. If
9174 the court finds that a further examination of the facts is needed, or if the court on its own
9175 motion determines that the decree should be reviewed, it shall conduct a hearing. Notice shall
9176 be given to all persons concerned. At the hearing, the court may enter an order continuing,

9177 modifying, or terminating the decree.

9178 (3) (a) A parent may not file a petition under this section after the parent's parental
9179 rights have been terminated in accordance with Part 5, Termination of Parental Rights Act.

9180 (b) A parent may not file a petition for restoration of custody under this section during
9181 the existence of a permanent guardianship established for the child under Subsection
9182 78A-6-117(2)(~~y~~)(x).

9183 (4) An individual, agency, or institution vested with legal custody of a child may
9184 petition the court for a modification of the custody order on the ground that the change is
9185 necessary for the welfare of the child or in the public interest. The court shall proceed upon the
9186 petition in accordance with Subsections (1) and (2).

9187 Section 137. Section 78A-6-1302 is amended to read:

9188 **78A-6-1302. Procedure -- Standard.**

9189 (1) When a motion is filed pursuant to Section 78A-6-1301 raising the issue of a
9190 minor's competency to proceed, or when the court raises the issue of a minor's competency to
9191 proceed, the juvenile court in which proceedings are pending shall stay all delinquency
9192 proceedings.

9193 (2) If a motion for inquiry is opposed by either party, the court shall, prior to granting
9194 or denying the motion, hold a limited hearing solely for the purpose of determining the
9195 sufficiency of the motion. If the court finds that the allegations of incompetency raise a bona
9196 fide doubt as to the minor's competency to proceed, it shall enter an order for an evaluation of
9197 the minor's competency to proceed, and shall set a date for a hearing on the issue of the minor's
9198 competency.

9199 (3) After the granting of a motion, and prior to a full competency hearing, the court
9200 may order the Department of Human Services to evaluate the minor and to report to the court
9201 concerning the minor's mental condition.

9202 (4) The minor shall be evaluated by a mental health examiner with experience in
9203 juvenile forensic evaluations and juvenile brain development, who is not involved in the
9204 current treatment of the minor. If it becomes apparent that the minor may be not competent
9205 due to an intellectual disability or related condition, the examiner shall be experienced in
9206 intellectual disability or related condition evaluations of minors.

9207 (5) The petitioner or other party, as directed by the court, shall provide all information

9208 and materials to the examiners relevant to a determination of the minor's competency
9209 including:

- 9210 (a) the motion;
- 9211 (b) the arrest or incident reports pertaining to the charged offense;
- 9212 (c) the minor's known delinquency history information;
- 9213 (d) known prior mental health evaluations and treatments; and
- 9214 (e) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the
9215 minor's education.

9216 (6) The minor's parents or guardian, the prosecutor, defense attorney, and guardian ad
9217 litem, shall cooperate in providing the relevant information and materials to the examiners.

9218 (7) In conducting the evaluation and in the report determining if a minor is not
9219 competent to proceed as defined in [~~Subsection~~] Section 78A-6-105[~~(38)~~], the examiner shall
9220 consider the impact of a mental disorder, intellectual disability, or related condition on a
9221 minor's present capacity to:

- 9222 (a) comprehend and appreciate the charges or allegations;
- 9223 (b) disclose to counsel pertinent facts, events, or states of mind;
- 9224 (c) comprehend and appreciate the range and nature of possible penalties, if applicable,
9225 that may be imposed in the proceedings against the minor;
- 9226 (d) engage in reasoned choice of legal strategies and options;
- 9227 (e) understand the adversarial nature of the proceedings;
- 9228 (f) manifest appropriate courtroom behavior; and
- 9229 (g) testify relevantly, if applicable.

9230 (8) In addition to the requirements of Subsection (7), the examiner's written report
9231 shall:

- 9232 (a) identify the specific matters referred for evaluation;
- 9233 (b) describe the procedures, techniques, and tests used in the evaluation and the
9234 purpose or purposes for each;
- 9235 (c) state the examiner's clinical observations, findings, and opinions on each issue
9236 referred for evaluation by the court, and indicate specifically those issues, if any, on which the
9237 examiner could not give an opinion;
- 9238 (d) state the likelihood that the minor will attain competency and the amount of time

9239 estimated to achieve it; and

9240 (e) identify the sources of information used by the examiner and present the basis for
9241 the examiner's clinical findings and opinions.

9242 (9) The examiner shall provide an initial report to the court, the prosecuting and
9243 defense attorneys, and the guardian ad litem, if applicable, within 30 days of the receipt of the
9244 court's order. If the examiner informs the court that additional time is needed, the court may
9245 grant, taking into consideration the custody status of the minor, up to an additional 30 days to
9246 provide the report to the court and counsel. The examiner must provide the report within 60
9247 days from the receipt of the court's order unless, for good cause shown, the court authorizes an
9248 additional period of time to complete the evaluation and provide the report. The report shall
9249 inform the court of the examiner's opinion concerning the competency and the likelihood of the
9250 minor to attain competency within a year. In the alternative, the examiner may inform the court
9251 in writing that additional time is needed to complete the report.

9252 (10) Any statement made by the minor in the course of any competency evaluation,
9253 whether the evaluation is with or without the consent of the minor, any testimony by the
9254 examiner based upon any statement, and any other fruits of the statement may not be admitted
9255 in evidence against the minor in any delinquency or criminal proceeding except on an issue
9256 respecting the mental condition on which the minor has introduced evidence. The evidence
9257 may be admitted, however, where relevant to a determination of the minor's competency.

9258 (11) Before evaluating the minor, examiners shall specifically advise the minor and the
9259 parents or guardian of the limits of confidentiality as provided under Subsection (10).

9260 (12) When the report is received the court shall set a date for a competency hearing that
9261 shall be held in not less than five and not more than 15 days, unless the court enlarges the time
9262 for good cause.

9263 (13) A minor shall be presumed competent unless the court, by a preponderance of the
9264 evidence, finds the minor not competent to proceed. The burden of proof is upon the
9265 proponent of incompetency to proceed.

9266 (14) (a) Following the hearing, the court shall determine by a preponderance of
9267 evidence whether the minor is:

9268 (i) competent to proceed;

9269 (ii) not competent to proceed with a substantial probability that the minor may attain

9270 competency in the foreseeable future; or

9271 (iii) not competent to proceed without a substantial probability that the minor may
9272 attain competency in the foreseeable future.

9273 (b) If the court enters a finding pursuant to Subsection (14)(a)(i), the court shall
9274 proceed with the delinquency proceedings.

9275 (c) If the court enters a finding pursuant to Subsection (14)(a)(ii), the court shall
9276 proceed consistent with Section 78A-6-1303.

9277 (d) If the court enters a finding pursuant to Subsection (14)(a)(iii), the court shall
9278 terminate the competency proceeding, dismiss the delinquency charges without prejudice, and
9279 release the minor from any custody order related to the pending delinquency proceeding, unless
9280 the prosecutor informs the court that commitment proceedings pursuant to Title 62A, Chapter
9281 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental
9282 Health Act, will be initiated. These commitment proceedings shall be initiated within seven
9283 days after the court's order, unless the court enlarges the time for good cause shown. The
9284 minor may be ordered to remain in custody until the commitment proceedings have been
9285 concluded.

9286 (15) If the court finds the minor not competent to proceed, its order shall contain
9287 findings addressing each of the factors in Subsection (7).

9288 Section 138. Section 78A-7-106 is amended to read:

9289 **78A-7-106. Jurisdiction.**

9290 (1) Justice courts have jurisdiction over class B and C misdemeanors, violation of
9291 ordinances, and infractions committed within their territorial jurisdiction by a person 18 years
9292 of age or older.

9293 (2) Except those offenses over which the juvenile court has exclusive jurisdiction,
9294 justice courts have jurisdiction over the following offenses committed within their territorial
9295 jurisdiction by a person who is 16 or 17 years of age:

9296 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
9297 Licensing Act; and

9298 (b) class B and C misdemeanor and infraction violations of:

9299 (i) Title 23, Wildlife Resources Code of Utah;

9300 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

- 9301 (iii) Title 41, Chapter 6a, Traffic Code;
- 9302 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
- 9303 Operators Act;
- 9304 (v) Title 41, Chapter 22, Off-Highway Vehicles;
- 9305 (vi) Title 73, Chapter 18, State Boating Act;
- 9306 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 9307 (viii) Title 73, Chapter 18b, Water Safety; and
- 9308 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
- 9309 Operators Act.
- 9310 (3) As used in this section, "the court's jurisdiction" means the territorial jurisdiction of
- 9311 a justice court.
- 9312 (4) An offense is committed within the territorial jurisdiction of a justice court if:
- 9313 (a) conduct constituting an element of the offense or a result constituting an element of
- 9314 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
- 9315 itself unlawful;
- 9316 (b) either a person committing an offense or a victim of an offense is located within the
- 9317 court's jurisdiction at the time the offense is committed;
- 9318 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs
- 9319 within the court's jurisdiction;
- 9320 (d) a person commits any act constituting an element of an inchoate offense within the
- 9321 court's jurisdiction, including an agreement in a conspiracy;
- 9322 (e) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in
- 9323 the planning or commission of an offense within the court's jurisdiction;
- 9324 (f) the investigation of the offense does not readily indicate in which court's
- 9325 jurisdiction the offense occurred, and:
- 9326 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
- 9327 passing within the court's jurisdiction;
- 9328 (ii) (A) the offense is committed on or in any body of water bordering on or within this
- 9329 state if the territorial limits of the justice court are adjacent to the body of water; and
- 9330 (B) as used in Subsection [~~(5)~~](4)(f)(ii)(A), "body of water" includes any stream, river,
- 9331 lake, or reservoir, whether natural or man-made;

9332 (iii) a person who commits theft exercises control over the affected property within the
9333 court's jurisdiction; or

9334 (iv) the offense is committed on or near the boundary of the court's jurisdiction;

9335 (g) the offense consists of an unlawful communication that was initiated or received
9336 within the court's jurisdiction; or

9337 (h) jurisdiction is otherwise specifically provided by law.

9338 (5) A justice court judge may transfer a criminal matter in which the defendant is a
9339 child to the juvenile court for further proceedings if the justice court judge determines and the
9340 juvenile court concurs that the best interests of the minor would be served by the continuing
9341 jurisdiction of the juvenile court, subject to Section [78A-6-602](#).

9342 (6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,
9343 Small Claims Courts, if a defendant resides in or the debt arose within the territorial
9344 jurisdiction of the justice court.

9345 Section 139. Section **78B-6-112** is amended to read:

9346 **78B-6-112. District court jurisdiction over termination of parental rights**
9347 **proceedings.**

9348 (1) A district court has jurisdiction to terminate parental rights in a child if the party
9349 who filed the petition is seeking to terminate parental rights in the child for the purpose of
9350 facilitating the adoption of the child.

9351 (2) A petition to terminate parental rights under this section may be:

9352 (a) joined with a proceeding on an adoption petition; or

9353 (b) filed as a separate proceeding before or after a petition to adopt the child is filed.

9354 (3) A court may enter a final order terminating parental rights before a final decree of
9355 adoption is entered.

9356 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to
9357 proceedings to terminate parental rights as described in Section [78A-6-103](#).

9358 (b) This section does not grant jurisdiction to a district court to terminate parental
9359 rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse,
9360 neglect, dependency, or termination of parental rights proceeding.

9361 (5) The district court may terminate an individual's parental rights in a child if:

9362 (a) the individual executes a voluntary consent to adoption, or relinquishment for

9363 adoption, of the child, in accordance with:

9364 (i) the requirements of this chapter; or

9365 (ii) the laws of another state or country, if the consent is valid and irrevocable;

9366 (b) the individual is an unmarried biological father who is not entitled to consent to

9367 adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

9368 (c) the individual:

9369 (i) received notice of the adoption proceeding relating to the child under Section

9370 78B-6-110; and

9371 (ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days

9372 after the day on which the individual was served with notice of the adoption proceeding;

9373 (d) the court finds, under Section 78B-15-607, that the individual is not a parent of the

9374 child; or

9375 (e) the individual's parental rights are terminated on grounds described in Title 78A,

9376 Chapter 6, Part 5, Termination of Parental Rights Act, if terminating the ~~[person's]~~ individual's

9377 parental rights is in the best interests of the child.

9378 (6) The court shall appoint counsel designated by the county where the petition is filed

9379 to represent a party who faces any action initiated by a private party under Title 78A, Chapter

9380 6, Part 5, Termination of Parental Rights Act or whose parental rights are subject to

9381 termination under this section, if:

9382 (a) the court determines that the party is indigent under Section 77-32-202; and

9383 (b) the party does not, after being fully advised of the right to counsel, knowingly,

9384 intelligently and voluntarily waive the right to counsel.

9385 (7) If a county incurs expenses in providing defense services to indigent individuals

9386 facing any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of

9387 Parental Rights Act or termination of parental rights under this section, the county may apply

9388 for a grant for reimbursement from the Utah Indigent Defense Commission under Section

9389 77-32-806.

9390 Section 140. Section 78B-6-812 is amended to read:

9391 **78B-6-812. Order of restitution -- Service -- Enforcement -- Disposition of**

9392 **personal property -- Hearing.**

9393 (1) An order of restitution shall:

9394 (a) direct the defendant to vacate the premises, remove the defendant's personal
9395 property, and restore possession of the premises to the plaintiff, or be forcibly removed by a
9396 sheriff or constable;

9397 (b) advise the defendant of the time limit set by the court for the defendant to vacate
9398 the premises, which shall be three calendar days following service of the order, unless the court
9399 determines that a longer or shorter period is appropriate after a finding of extenuating
9400 circumstances; and

9401 (c) advise the defendant of the defendant's right to a hearing to contest the manner of
9402 its enforcement.

9403 (2) (a) A copy of the order of restitution and a form for the defendant to request a
9404 hearing as listed on the form shall be served in accordance with Section 78B-6-805 by a person
9405 authorized to serve process pursuant to Subsection 78B-8-302~~(1)~~(2).

9406 (b) A request for hearing or other pleading filed by the defendant may not stay
9407 enforcement of the restitution order unless:

9408 (i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property
9409 bond to the clerk of the court in an amount approved by the court according to Subsection
9410 78B-6-808(4)(b); and

9411 (ii) the court orders that the restitution order be stayed.

9412 (c) The date of service, the name, title, signature, and telephone number of the person
9413 serving the order and the form shall be legibly endorsed on the copy of the order and the form
9414 served on the defendant.

9415 (d) The person serving the order and the form shall file proof of service in accordance
9416 with Rule 4(e), Utah Rules of Civil Procedure.

9417 (3) (a) If the defendant fails to comply with the order within the time prescribed by the
9418 court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the
9419 least destructive means possible to remove the defendant.

9420 (b) Personal property remaining in the leased property may be removed from the
9421 premises by the sheriff or constable and transported to a suitable location for safe storage. The
9422 sheriff or constable may delegate responsibility for inventory, moving, and storage to the
9423 plaintiff, who shall store the personal property in a suitable place and in a reasonable manner.

9424 (c) A tenant may not access the property until the removal and storage costs have been

9425 paid in full, except that the tenant shall be provided reasonable access within five business days
9426 to retrieve:

9427 (i) clothing;

9428 (ii) identification;

9429 (iii) financial documents, including all those related to the tenant's immigration status
9430 or employment status;

9431 (iv) documents pertaining to receipt of public services; and

9432 (v) medical information, prescription medications, and any medical equipment required
9433 for maintenance of medical needs.

9434 (d) The personal property removed and stored is considered abandoned property and
9435 subject to Section 78B-6-816.

9436 (4) In the event of a dispute concerning the manner of enforcement of the restitution
9437 order, the defendant may file a request for a hearing. The court shall set the matter for hearing
9438 within 10 calendar days from the filing of the request, or as soon thereafter as practicable, and
9439 shall mail notice of the hearing to the parties.

9440 (5) The Judicial Council shall draft the forms necessary to implement this section.

9441 Section 141. Section 78B-7-107 is amended to read:

9442 **78B-7-107. Hearings on ex parte orders.**

9443 (1) (a) When a court issues an ex parte protective order the court shall set a date for a
9444 hearing on the petition to be held within 20 days after the ex parte order is issued.

9445 (b) If at that hearing the court does not issue a protective order, the ex parte protective
9446 order shall expire, unless it is otherwise extended by the court. Extensions beyond the 20-day
9447 period may not ~~by~~ be granted unless:

9448 (i) the petitioner is unable to be present at the hearing;

9449 (ii) the respondent has not been served;

9450 (iii) the respondent has had the opportunity to present a defense at the hearing;

9451 (iv) the respondent requests that the ex parte order be extended; or

9452 (v) exigent circumstances exist.

9453 (c) Under no circumstances may an ex parte order be extended beyond 180 days from
9454 the date of initial issuance.

9455 (d) If at that hearing the court issues a protective order, the ex parte protective order

9456 remains in effect until service of process of the protective order is completed.

9457 (e) A protective order issued after notice and a hearing is effective until further order of
9458 the court.

9459 (f) If the hearing on the petition is heard by a commissioner, either the petitioner or
9460 respondent may file an objection within 10 days of the entry of the recommended order and the
9461 assigned judge shall hold a hearing within 20 days of the filing of the objection.

9462 (2) Upon a hearing under this section, the court may grant any of the relief described in
9463 Section [78B-7-106](#).

9464 (3) When a court denies a petition for an ex parte protective order or a petition to
9465 modify an order for protection ex parte, upon the request of the petitioner, the court shall set
9466 the matter for hearing and notify the petitioner and serve the respondent.

9467 (4) A respondent who has been served with an ex parte protective order may seek to
9468 vacate the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a)
9469 by filing a verified motion to vacate. The respondent's verified motion to vacate and a notice
9470 of hearing on that motion shall be personally served on the petitioner at least two days prior to
9471 the hearing on the motion to vacate.

9472 Section 142. Section **78B-12-402** is amended to read:

9473 **78B-12-402. Duties -- Report -- Staff.**

9474 (1) The advisory committee shall review the child support guidelines to ensure the
9475 application of the guidelines results in the determination of appropriate child support award
9476 amounts.

9477 (2) The advisory committee shall submit, in accordance with Section [~~63-3-14~~]
9478 [68-3-14](#), a written report to the legislative Judiciary Interim Committee on or before October 1,
9479 2021, and then on or before October 1 of every fourth year subsequently.

9480 (3) The advisory committee's report shall include recommendations of the majority of
9481 the advisory committee, as well as specific recommendations of individual members of the
9482 advisory committee.

9483 (4) Staff for the advisory committee shall be provided from the existing budget of the
9484 Department of Human Services.