

Higher Education Recodification External References

2025 FIRST SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill renumbers references throughout the code to the higher education code to conform with the recodification of the higher education code.

Highlighted Provisions:

This bill:

- renumbers references throughout the code to the higher education code to conform with the recodification of the higher education code; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-1-109 (Effective upon governor's approval), as last amended by Laws of Utah 2025, Chapter 438

4-2-701 (Effective upon governor's approval) (Repealed 07/01/26), as last amended by Laws of Utah 2025, Chapter 94

4-41a-102 (Effective upon governor's approval), as last amended by Laws of Utah 2025, Chapter 392

9-8a-302 (Effective upon governor's approval), as renumbered and amended by Laws of Utah 2023, Chapter 160

9-8a-305 (Effective upon governor's approval), as renumbered and amended by Laws of Utah 2023, Chapter 160

29 **9-9-402 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,
30 Chapter 160

31 **9-20-301 (Effective upon governor's approval) (Repealed 07/01/27)**, as last amended by
32 Laws of Utah 2025, Chapter 44

33 **9-22-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2021,
34 Chapter 282

35 **9-22-106 (Effective upon governor's approval)**, as last amended by Laws of Utah 2020,
36 Chapter 365

37 **9-22-112 (Effective upon governor's approval)**, as last amended by Laws of Utah 2019,
38 Chapter 357 and renumbered and amended by Laws of Utah 2019, Chapter 487

39 **9-22-113 (Effective upon governor's approval)**, as renumbered and amended by Laws of
40 Utah 2019, Chapter 487

41 **10-9a-210 (Effective upon governor's approval)**, as enacted by Laws of Utah 2005,
42 Chapter 231

43 **11-13a-102 (Effective upon governor's approval)**, as last amended by Laws of Utah
44 2025, Chapter 164

45 **11-17-2 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
46 Chapters 53, 438 and 535

47 **11-17-3 (Effective upon governor's approval)**, as last amended by Laws of Utah 2013,
48 Chapter 345

49 **11-36a-202 (Effective upon governor's approval)**, as last amended by Laws of Utah
50 2024, Chapter 419

51 **11-41-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
52 Chapter 477

53 **11-70-101 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
54 Chapter 498

55 **13-1-15 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
56 Chapter 438

57 **13-34-101 (Effective upon governor's approval)**, as repealed and reenacted by Laws of
58 Utah 2023, Chapter 458

59 **13-34-303 (Effective upon governor's approval)**, as enacted by Laws of Utah 2023,
60 Chapter 458

61 **16-6a-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
62 Chapter 102

63 **17-27a-1102 (Effective upon governor's approval)**, as last amended by Laws of Utah
64 2023, Chapter 327

65 **17-43-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
66 Chapter 141

67 **20A-8-101 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
68 Chapter 90

69 **20A-8-404 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
70 Chapters 42, 448

71 **26B-1-242 (Effective upon governor's approval)**, as enacted by Laws of Utah 2023,
72 Chapter 275

73 **26B-1-310 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
74 Chapter 128

75 **26B-1-435 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
76 Chapter 392

77 **26B-3-108 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
78 Chapter 426

79 **26B-4-222 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
80 Chapters 114, 414

81 **26B-4-243 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
82 Chapter 414

83 **26B-4-512 (Effective upon governor's approval)**, as renumbered and amended by Laws
84 of Utah 2023, Chapter 307

85 **26B-4-705 (Effective upon governor's approval)**, as renumbered and amended by Laws
86 of Utah 2023, Chapter 307

87 **26B-5-121 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
88 Chapter 141

89 **26B-5-310 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
90 Chapter 46

91 **26B-5-801 (Effective upon governor's approval) (Repealed 01/01/33)**, as last amended by
92 Laws of Utah 2025, Chapter 135

93 **26B-8-225 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
94 Chapter 240

95 **31A-3-301 (Effective upon governor's approval)**, as last amended by Laws of Utah 2011,
96 Chapter 275

97 **31A-23a-102 (Effective upon governor's approval)**, as last amended by Laws of Utah
98 2025, Chapter 438
99 **31A-26-102 (Effective upon governor's approval)**, as last amended by Laws of Utah
100 2025, Chapter 438
101 **32B-4-424 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
102 Chapter 94
103 **34-41-101 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
104 Chapter 352
105 **34-41-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2016,
106 Chapter 348
107 **34-41-103 (Effective upon governor's approval)**, as repealed and reenacted by Laws of
108 Utah 2024, Chapter 352
109 **34-41-104 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
110 Chapter 352
111 **34-41-105 (Effective upon governor's approval)**, as enacted by Laws of Utah 1994,
112 Chapter 18
113 **34-41-107 (Effective upon governor's approval)**, as enacted by Laws of Utah 1994,
114 Chapter 18
115 **34-49-102 (Effective upon governor's approval)**, as enacted by Laws of Utah 2015,
116 Chapter 156
117 **34A-2-104.5 (Effective upon governor's approval)**, as last amended by Laws of Utah
118 2018, Chapter 415
119 **34A-2-202.5 (Effective upon governor's approval) (Repealed 12/31/30)**, as last amended
120 by Laws of Utah 2025, Chapter 390
121 **34A-2-410.5 (Effective upon governor's approval)**, as last amended by Laws of Utah
122 2020, Chapter 18
123 **34A-2-701 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
124 Chapter 350
125 **34A-3-101 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
126 Chapter 184
127 **35A-1-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,
128 Chapters 16, 328
129 **35A-1-109 (Effective upon governor's approval)**, as last amended by Laws of Utah 2022,
130 Chapter 362

131 **35A-9-601 (Effective upon governor's approval) (Repealed 07/01/28)**, as enacted by
132 Laws of Utah 2023, Chapter 52

133 **35A-9-604 (Effective upon governor's approval) (Repealed 07/01/28)**, as enacted by
134 Laws of Utah 2023, Chapter 52

135 **36-12-15.1 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
136 Chapter 403

137 **36-12-15.4 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
138 Chapter 323

139 **41-1a-1601 (Effective upon governor's approval)**, as last amended by Laws of Utah
140 2025, Chapter 247

141 **41-1a-1605 (Effective upon governor's approval)**, as last amended by Laws of Utah
142 2025, Chapter 247

143 **41-6a-2003 (Effective upon governor's approval)**, as last amended by Laws of Utah
144 2024, Chapter 251

145 **49-11-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,
146 Chapter 16

147 **49-11-623 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
148 Chapter 72

149 **49-20-202 (Effective upon governor's approval)**, as last amended by Laws of Utah 2010,
150 Chapters 211, 318

151 **51-4-1 (Effective upon governor's approval)**, as last amended by Laws of Utah 2013,
152 Chapter 388

153 **51-7-2 (Effective upon governor's approval) (Partially Repealed 07/01/27)**, as last
154 amended by Laws of Utah 2025, Chapter 167

155 **51-7-3 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
156 Chapter 387

157 **51-7-11 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
158 Chapter 187

159 **51-7-17 (Effective upon governor's approval)**, as last amended by Laws of Utah 2019,
160 Chapter 56

161 **51-8-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2011,
162 Chapter 342

163 **52-4-103 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
164 Chapter 390

53-1-102 (Effective upon governor's approval), as last amended by Laws of Utah 2024,
Chapter 425

53-3-207 (Effective upon governor's approval), as last amended by Laws of Utah 2023,
Chapters 16, 328 and 456

53-6-209 (Effective upon governor's approval), as last amended by Laws of Utah 2023,
Chapter 453

53-7-204 (Effective upon governor's approval), as last amended by Laws of Utah 2025,
Chapter 18

53-9-102 (Effective upon governor's approval), as last amended by Laws of Utah 2025,
Chapter 438

53-10-302 (Effective upon governor's approval), as last amended by Laws of Utah 2024,
Chapter 21

53-13-103 (Effective upon governor's approval), as last amended by Laws of Utah 2025,
Chapter 214

53-17a-101 (Effective upon governor's approval), as enacted by Laws of Utah 2023,
Chapter 410

53C-3-105 (Effective upon governor's approval), as enacted by Laws of Utah 2005,
Chapter 189

53D-2-203 (Effective upon governor's approval), as last amended by Laws of Utah 2024,
Chapters 20, 425

53E-1-201 (Effective upon governor's approval) (Partially Repealed 07/01/27), as last
amended by Laws of Utah 2025, Chapters 165, 413 and 427

53E-3-501 (Effective upon governor's approval), as last amended by Laws of Utah 2025,
Chapter 427

53E-3-507 (Effective upon governor's approval), as last amended by Laws of Utah 2021,
Chapters 187, 254

53E-3-507.1 (Effective upon governor's approval), as enacted by Laws of Utah 2025,
Chapter 478

53E-3-1101 (Effective upon governor's approval), as enacted by Laws of Utah 2024,
Chapter 3

53E-3-1201 (Effective upon governor's approval), as enacted by Laws of Utah 2025,
Chapter 438

53E-4-308 (Effective upon governor's approval), as last amended by Laws of Utah 2023,
Chapter 380

199 **53E-6-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
200 Chapter 438
201 **53E-10-301 (Effective upon governor's approval)**, as last amended by Laws of Utah
202 2024, Chapters 83, 240
203 **53E-10-310 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
204 Chapter 377
205 **53E-10-706 (Effective upon governor's approval)**, as last amended by Laws of Utah
206 2022, Chapters 401, 461
207 **53E-10-707 (Effective upon governor's approval)**, as last amended by Laws of Utah
208 2022, Chapters 401, 461
209 **53F-2-415 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
210 Chapter 73
211 **53F-2-502 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,
212 Chapter 129
213 **53F-2-510 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,
214 Chapter 349
215 **53F-2-526 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
216 Chapter 323
217 **53F-4-504 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
218 Chapter 24
219 **53F-5-223 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
220 Chapter 433
221 **53F-5-501 (Effective upon governor's approval)**, as last amended by Laws of Utah 2021,
222 Chapter 129
223 **53F-6-401 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
224 Chapter 541
225 **53G-1-103 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
226 Chapters 173, 438
227 **53G-2-104 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
228 Chapter 3
229 **53G-2-105 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
230 Chapter 3
231 **53G-5-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
232 Chapter 63

233 **53G-5-306 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
234 Chapter 63

235 **53G-6-708 (Effective upon governor's approval)**, as last amended by Laws of Utah 2019,
236 Chapter 293

237 **53G-7-227 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
238 Chapter 329

239 **53G-7-1101 (Effective upon governor's approval)**, as last amended by Laws of Utah
240 2019, Chapter 293

241 **53G-8-202 (Effective upon governor's approval)**, as last amended by Laws of Utah 2019,
242 Chapters 293, 446

243 **53G-8-203 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
244 Chapter 327

245 **53G-9-703 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
246 Chapters 308, 388

247 **53G-9-902 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
248 Chapter 380

249 **53G-11-303 (Effective upon governor's approval)**, as last amended by Laws of Utah
250 2023, Chapter 20

251 **54-8b-10 (Effective upon governor's approval)**, as last amended by Laws of Utah 2020,
252 Chapter 365

253 **57-21-3 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
254 Chapter 11

255 **58-1-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
256 Chapter 491

257 **58-22-302 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
258 Chapter 213

259 **58-37-3.5 (Effective upon governor's approval) (Repealed 07/01/27)**, as enacted by Laws
260 of Utah 2024, Chapter 539

261 **59-7-105 (Effective upon governor's approval)**, as last amended by Laws of Utah 2020,
262 Chapter 184

263 **59-7-106 (Effective upon governor's approval)**, as last amended by Laws of Utah 2021,
264 Chapters 368, 370

265 **59-9-101 (Effective upon governor's approval)**, as last amended by Laws of Utah 2022,
266 Chapter 364

267 **59-9-102.5 (Effective upon governor's approval) (Repealed 12/31/30)**, as last amended
268 by Laws of Utah 2025, Chapter 390
269 **59-10-114 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
270 Chapter 182
271 **59-10-136 (Effective upon governor's approval)**, as last amended by Laws of Utah 2024,
272 Chapter 248
273 **59-10-201 (Effective upon governor's approval)**, as last amended by Laws of Utah 2010,
274 Chapter 6
275 **59-10-202 (Effective upon governor's approval)**, as last amended by Laws of Utah 2019,
276 Chapter 412
277 **59-10-1017 (Effective upon governor's approval)**, as last amended by Laws of Utah
278 2021, Chapters 367, 370
279 **59-10-1313 (Effective upon governor's approval)**, as last amended by Laws of Utah
280 2015, Chapter 94
281 **59-12-102 (Effective upon governor's approval) (Superseded 07/01/26)**, as last amended
282 by Laws of Utah 2025, Chapter 194
283 **59-12-102 (Effective 07/01/26)**, as last amended by Laws of Utah 2025, Chapter 285
284 **59-12-702 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
285 Chapter 277
286 **61-1-32 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
287 Chapter 438
288 **61-2f-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
289 Chapter 248
290 **63A-3-103 (Effective upon governor's approval)**, as last amended by Laws of Utah 2021,
291 Chapter 84
292 **63A-3-106 (Effective upon governor's approval)**, as last amended by Laws of Utah 2018,
293 Chapter 415
294 **63A-3-107 (Effective upon governor's approval)**, as last amended by Laws of Utah 2014,
295 Chapter 387
296 **63A-3-201 (Effective upon governor's approval)**, as last amended by Laws of Utah 2022,
297 Chapter 169
298 **63A-5b-102 (Effective upon governor's approval)**, as last amended by Laws of Utah
299 2024, Chapter 425
300 **63A-5b-403 (Effective upon governor's approval)**, as last amended by Laws of Utah

301 2022, Chapter 421
302 **63A-5b-805 (Effective upon governor's approval)**, as last amended by Laws of Utah
303 2020, Chapters 360, 365 and renumbered and amended by Laws of Utah 2020, Chapter 152
304 **63A-9-101 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,
305 Chapter 16
306 **63A-16-803 (Effective upon governor's approval)**, as last amended by Laws of Utah
307 2025, Chapter 108
308 **63A-16-1102 (Effective upon governor's approval)**, as renumbered and amended by
309 Laws of Utah 2024, Chapter 426
310 **63A-17-301 (Effective upon governor's approval)**, as last amended by Laws of Utah
311 2025, Chapter 403
312 **63B-5-201 (Effective upon governor's approval)**, as last amended by Laws of Utah 2022,
313 Chapter 447
314 **63C-4a-303 (Effective upon governor's approval) (Repealed 07/01/28)**, as last amended
315 by Laws of Utah 2025, Chapter 497
316 **63C-28-101 (Effective upon governor's approval) (Repealed 07/01/26)**, as enacted by
317 Laws of Utah 2022, Chapter 472
318 **63G-2-103 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
319 Chapters 368, 476
320 **63G-2-301 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
321 Chapter 188
322 **63G-2-305 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
323 Chapter 360
324 **63G-2-309 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
325 Chapter 476
326 **63G-3-201 (Effective upon governor's approval)**, as last amended by Laws of Utah 2020,
327 Chapter 408
328 **63G-6a-103 (Effective upon governor's approval)**, as last amended by Laws of Utah
329 2025, Chapter 69
330 **63G-6a-1303 (Effective upon governor's approval)**, as last amended by Laws of Utah
331 2020, Chapter 257
332 **63G-7-102 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,
333 Chapter 16
334 **63G-7-301 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,

335 Chapters 173, 291 and 364
336 **63G-12-102 (Effective upon governor's approval)**, as last amended by Laws of Utah
337 2025, Chapter 173
338 **63G-12-402 (Effective upon governor's approval)**, as last amended by Laws of Utah
339 2024, Chapter 96
340 **63G-16-201 (Effective upon governor's approval)**, as last amended by Laws of Utah
341 2025, Chapter 355
342 **63G-31-305 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
343 Chapter 11
344 **63H-9-101 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
345 Chapter 93
346 **63I-1-253 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
347 Chapters 165, 270
348 **63I-2-253 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
349 Chapter 427
350 **63J-1-206 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
351 Chapter 287
352 **63J-1-602.1 (Effective upon governor's approval)**, as last amended by Laws of Utah
353 2025, Chapter 426
354 **63J-1-602.2 (Effective upon governor's approval) (Partially Repealed 07/01/29)**, as last
355 amended by Laws of Utah 2025, Chapter 172
356 **63L-6-102 (Effective upon governor's approval)**, as enacted by Laws of Utah 2012,
357 Chapter 353
358 **63M-7-210 (Effective upon governor's approval)**, as last amended by Laws of Utah 2019,
359 Chapter 136
360 **63M-7-502 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
361 Chapter 173
362 **64-13-6 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
363 Chapters 86, 214 and 299
364 **64-13e-102 (Effective upon governor's approval)**, as last amended by Laws of Utah
365 2025, Chapter 243
366 **67-3-12 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
367 Chapter 270
368 **67-5-1 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,

369 Chapter 271
370 **67-8-3 (Effective upon governor's approval)**, as last amended by Laws of Utah 2021,
371 Chapter 344
372 **67-21-2 (Effective upon governor's approval)**, as last amended by Laws of Utah 2023,
373 Chapter 16
374 **67-21-3 (Effective upon governor's approval)**, as last amended by Laws of Utah 2022,
375 Chapter 174
376 **67-21-3.7 (Effective upon governor's approval)**, as last amended by Laws of Utah 2022,
377 Chapter 174
378 **67-21-4 (Effective upon governor's approval)**, as last amended by Laws of Utah 2022,
379 Chapter 174
380 **67-27-106 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
381 Chapter 500
382 **67-27-107 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
383 Chapter 3
384 **67-27-108 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
385 Chapter 3
386 **67-27-109 (Effective upon governor's approval)**, as enacted by Laws of Utah 2024,
387 Chapter 3
388 **71A-1-201 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,
389 Chapters 71, 266 and 528
390 **71A-9-101 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
391 Chapter 71
392 **71A-9-102 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
393 Chapter 71
394 **72-2-205 (Effective upon governor's approval)**, as last amended by Laws of Utah 2011,
395 Chapter 342
396 **75A-8-110 (Effective upon governor's approval)**, as renumbered and amended by Laws
397 of Utah 2024, Chapter 364
398 **76-5-802 (Effective upon governor's approval)**, as renumbered and amended by Laws of
399 Utah 2025, Chapter 173
400 **76-5-803 (Effective upon governor's approval)**, as enacted by Laws of Utah 2025,
401 Chapter 173
402 **76-8-311.1 (Effective upon governor's approval)**, as last amended by Laws of Utah 2025,

Chapters 173, 208

76-8-703 (Effective upon governor's approval), as last amended by Laws of Utah 2024,
Chapter 96

76-8-705 (Effective upon governor's approval), as last amended by Laws of Utah 2024,
Chapter 96

77-23e-102 (Effective upon governor's approval), as last amended by Laws of Utah
2024, Chapter 216

77-38-203 (Effective upon governor's approval), as last amended by Laws of Utah 2023,
Chapter 99

77-38-404 (Effective upon governor's approval), as enacted by Laws of Utah 2019,
Chapter 361

79-3-102 (Effective upon governor's approval), as renumbered and amended by Laws of
Utah 2009, Chapter 344

79-3-503 (Effective upon governor's approval), as renumbered and amended by Laws of
Utah 2009, Chapter 344

79-6-106 (Effective upon governor's approval), as last amended by Laws of Utah 2024,
Chapter 88

79-6-409 (Effective upon governor's approval), as enacted by Laws of Utah 2025,
Chapter 521

79-6-1003 (Effective upon governor's approval), as last amended by Laws of Utah 2025,
Chapter 375

Utah Code Sections affected by Coordination Clause:

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

Section 1. Section **4-1-109** is amended to read:

4-1-109 (Effective upon governor's approval). General definitions.

As used in this title:

- (1) "Agricultural product" or "product of agriculture" means any product that is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.
- (2) "Agriculture" means the science and art of the production of plants and animals useful to man, including the preparation of plants and animals for human use and disposal by marketing or otherwise.
- (3) "Commissioner" means the commissioner of agriculture and food.

- 437 (4) "Department" means the Department of Agriculture and Food created in Chapter 2,
438 Administration.
- 439 (5) "Dietary supplement" means the same as that term is defined in the Federal Food, Drug,
440 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
- 441 (6) "DOD civilian" means the same as that term is defined in Section [53B-8-102]
442 53H-11-202.
- 443 (7) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk
444 as defined in Section 4-39-102, or any other domestic animal or domestic furbearer
445 raised or kept for profit.
- 446 (8) "Local food" means an agricultural product or livestock that is:
447 (a) produced, processed, and distributed for sale or consumption within the state; and
448 (b) sold to an end consumer within the state.
- 449 (9) "Organization" means a corporation, government or governmental subdivision or
450 agency, business trust, estate, trust, partnership, association, two or more persons having
451 a joint or common interest, or any other legal entity.
- 452 (10) "Person" means a natural person or individual, corporation, organization, or other legal
453 entity.

454 Section 2. Section **4-2-701** is amended to read:

455 **4-2-701 (Effective upon governor's approval) (Repealed 07/01/26). Pollinator**
456 **habitat program.**

- 457 (1) Subject to the other provisions of this section, the department shall implement a
458 pollinator habitat program that includes one or more of the following:
- 459 (a) public education efforts that include workshops, planting guides, or a public
460 education campaign to raise awareness about creating pollinator habitats;
- 461 (b) distribution of pollinator-friendly native flowering plants or seeds for native
462 flowering plants for planting within the state to protect a diversity of pollinators;
- 463 (c) pollinator programs run by local governments and nonprofit organizations with
464 support from the department; and
- 465 (d) grants that:
- 466 (i) are provided on a first-come, first-served basis; and
- 467 (ii) cover up to 75% of the costs for the planting of pollinator-friendly native
468 flowering plants or seeds for native flowering plants on private or public land.
- 469 (2)(a) The department may coordinate with the federal government, other state agencies, [
470 state]-institutions of higher education, as defined in Section 53H-1-101, or political

subdivisions to provide for the activities described in Subsection (1).

(b) The department may designate smaller areas of the state to begin the activities described in Subsection (1).

(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the criteria for receiving a grant under this section; and

(b) the process to apply for and receive a grant under this section.

Section 3. Section **4-41a-102** is amended to read:

4-41a-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advertise" or "advertising" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(4)(a) "Anticompetitive business practice" means any practice that is an illegal anticompetitive activity under Section 76-16-510.

(b) "Anticompetitive business practice" may include:

(i) agreements that may be considered unreasonable when competitors interact to the extent that they are:

(A) no longer acting independently; or

(B) when collaborating are able to wield market power together;

(ii) monopolizing or attempting to monopolize trade by:

(A) acting to maintain or acquire a dominant position in the market; or

(B) preventing new entry into the market; or

- 505 (iii) other conduct outlined in rule.
- 506 (5)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a
507 chemical reaction that changes the molecular structure of any chemical substance
508 derived from the cannabis plant.
- 509 (b) "Artificially derived cannabinoid" does not include:
- 510 (i) a naturally occurring chemical substance that is separated from the cannabis plant
511 by a chemical or mechanical extraction process; or
- 512 (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring
513 cannabinoid acid without the use of a chemical catalyst.
- 514 (6) "Batch" means a quantity of:
- 515 (a) cannabis extract produced on a particular date and time and produced between
516 completion of equipment and facility sanitation protocols until the next required
517 sanitation cycle during which lots of cannabis are used;
- 518 (b) cannabis product produced on a particular date and time and produced between
519 completion of equipment and facility sanitation protocols until the next required
520 sanitation cycle during which cannabis extract is used; or
- 521 (c) cannabis flower packaged on a particular date and time and produced between
522 completion of equipment and facility sanitation protocols until the next required
523 sanitation cycle during which lots of cannabis are being used.
- 524 (7) "Cannabis Research Review Board" means the Cannabis Research Review Board
525 created in Section 26B-1-420.
- 526 (8) "Cannabis" means the same as that term is defined in Section 26B-4-201.
- 527 (9) "Cannabis concentrate" means:
- 528 (a) the product of any chemical or physical process applied to naturally occurring
529 biomass that concentrates or isolates the cannabinoids contained in the biomass; and
- 530 (b) any amount of a natural cannabinoid or artificially derived cannabinoid in an
531 artificially derived cannabinoid's purified state.
- 532 (10) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not
533 intended to be sold as a cannabis plant product.
- 534 (11) "Cannabis cultivation facility" means a person that:
- 535 (a) possesses cannabis;
- 536 (b) grows or intends to grow cannabis; and
- 537 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
538 processing facility, or a medical cannabis research licensee.

- (12) "Cannabis cultivation facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.
- (13) "Cannabis derivative product" means a product made using cannabis concentrate.
- (14) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.
- (15) "Cannabis processing facility" means a person that:
- (a) acquires or intends to acquire cannabis from a cannabis production establishment;
 - (b) possesses cannabis with the intent to manufacture a cannabis product;
 - (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
 - (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- (16) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.
- (17) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
- (18) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- (19) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- (20) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
- (a) authorizes an individual to act as a cannabis production establishment agent; and
 - (b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- (21) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering medical cannabis.
- (22) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.
- (23) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

- 573 (24) "Delivery address" means:
- 574 (a) for a medical cannabis cardholder who is not a facility:
- 575 (i) the medical cannabis cardholder's home address; or
- 576 (ii) an address designated by the medical cannabis cardholder that:
- 577 (A) is the medical cannabis cardholder's workplace; and
- 578 (B) is not a community location; or
- 579 (b) for a medical cannabis cardholder that is a facility, the facility's address.
- 580 (25) "Department" means the Department of Agriculture and Food.
- 581 (26) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,
- 582 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
- 583 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.
- 584 (27) "Government issued photo identification" means the same as that term is defined in
- 585 Section 26B-4-201, including expired identification in accordance with Section
- 586 26B-4-244.
- 587 (28) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that
- 588 the department authorizes, as part of the pharmacy's license, to deliver medical cannabis
- 589 shipments to a delivery address to fulfill electronic orders.
- 590 (29)(a) "Independent cannabis testing laboratory" means a person that:
- 591 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or
- 592 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent
- 593 to conduct a chemical or other analysis of the cannabis or cannabis product.
- 594 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
- 595 or a research university operates in accordance with Subsection 4-41a-201(14).
- 596 (30) "Independent cannabis testing laboratory agent" means an individual who
- 597 holds a valid cannabis production establishment agent registration card with an independent
- 598 cannabis testing laboratory designation.
- 599 (31) "Inventory control system" means a system described in Section 4-41a-103.
- 600 (32) "Licensing board" or "board" means the Cannabis Production Establishment and
- 601 Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.
- 602 (33) "Medical cannabis" or "medical cannabis product" means the same as that term is
- 603 defined in Section 26B-4-201.
- 604 (34) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.
- 605 (35) "Medical cannabis courier" means a courier that:
- 606 (a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders.

(36) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

(37) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(38) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

(39) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(40) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(41) "Medical cannabis shipment" means a shipment of medical cannabis that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order.

(42) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

(43) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(44) "Patient product information insert" means the same as that term is defined in Section 26B-4-201.

(45) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

(46) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

(47) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(48) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

(49) "Research university" means the same as that term is defined in Section [53B-7-702] 53H-8-202 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

(50) "State electronic verification system" means the system described in Section 26B-4-202.

(51) "Targeted marketing" means the promotion of medical cannabis, a medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event;

(c) other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy; or

(d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis:

(i) in the medical cannabis pharmacy;

(ii) at the medical cannabis pharmacy's drive-through pick up window; or

(iii) in a medical cannabis shipment.

(52) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

(53) "Tier one cannabis processing facility" means a cannabis processing facility that is able to:

(a) create cannabis concentrate;

(b) create cannabis derivative product; and

(c) package and label medical cannabis.

(54) "Tier two cannabis processing facility" means a cannabis processing facility that is able to package and label medical cannabis only if the medical cannabis is a cannabis plant product.

(55) "THC analog" means the same as that term is defined in Section 4-41-102.

(56) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(57) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 4. Section **9-8a-302** is amended to read:

9-8a-302 (Effective upon governor's approval). Definitions.

As used in this part and Part 4, Historic Sites:

- (1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.
- (2) "Ancient human remains" means all or part of the following that are historic or prehistoric:
 - (a) a physical individual; and
 - (b) any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.
- (3) "Antiquities Section" means the Antiquities Section of the office created in Section 9-8a-304.
- (4) "Archaeological resources" means all material remains and their associations, recoverable or discoverable through excavation or survey, that provide information pertaining to the historic or prehistoric peoples of the state.
- (5) "Collection" means a specimen and the associated records documenting the specimen and the specimen's recovery.
- (6) "Curation" means management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions, and providing access to and facilities for studying collections.
- (7) "Curation facility" means the same as that term is defined in Section ~~[53B-17-603]~~ 53H-4-211.
- (8) "Excavate" means the recovery of archaeological resources.
- (9) "Historic property" means any prehistoric or historic district, site, building, structure, or specimen included in, or eligible for inclusion in, the National Register of Historic Places or the State Register.
- (10) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- (11) "Museum" means the Utah Museum of Natural History.
- (12)(a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands.

(13) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.

(14) "Repository" means the same as that term is defined in Section ~~[53B-17-603]~~ 53H-4-211.

(15) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(16) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.

(17) "Specimen" means all man-made artifacts and remains of an archaeological or anthropological nature found on or below the surface of the earth, excluding structural remains.

(18)(a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section ~~[53B-3-102]~~ 53H-1-101.

(b) "State land" does not include:

(i) land owned by a political subdivision of the state;

(ii) land owned by a school district;

(iii) private land; or

(iv) school and institutional trust lands.

(19) "Survey" means a surface investigation for archaeological resources that may include:

(a) insubstantial surface collection of archaeological resources; and

(b) limited subsurface testing that disturbs no more of a site than is necessary to determine the nature and extent of the archaeological resources or whether the site is a historic property.

Section 5. Section **9-8a-305** is amended to read:

743 **9-8a-305 (Effective upon governor's approval). Permit required to survey or**
744 **excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and**
745 **make rules -- Ownership of collections and resources -- Revocation or suspension of**
746 **permits -- Criminal penalties.**

747 (1)(a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator
748 who wishes to survey or excavate on any lands owned or controlled by the state, its
749 political subdivisions, or by the School and Institutional Trust Lands Administration
750 shall obtain a survey or excavation permit from the Public Lands Policy Coordinating
751 Office.

752 (b) A principal investigator who holds a valid permit under this section may allow other
753 individuals to assist the principal investigator in a survey or excavation if the
754 principal investigator ensures that all the individuals comply with the law, the rules,
755 the permit, and the appropriate professional standards.

756 (c) A person, other than a principal investigator, may not survey or excavate on any
757 lands owned or controlled by the state, its political subdivisions, or by the School and
758 Institutional Trust Lands Administration unless the person works under the direction
759 of a principal investigator who holds a valid permit.

760 (d) A permit obtained before July 1, 2006, shall continue until the permit terminates on
761 its own terms.

762 (2)(a) To obtain a survey permit, a principal investigator shall:

763 (i) submit a permit application on a form furnished by the Public Lands Policy
764 Coordinating Office;

765 (ii) except as provided in Subsection (2)(b), possess a graduate degree in
766 anthropology, archaeology, or history;

767 (iii) have one year of full-time professional experience or equivalent specialized
768 training in archaeological research, administration, or management; and

769 (iv) have one year of supervised field and analytical experience in Utah prehistoric or
770 historic archaeology.

771 (b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal
772 investigator may submit evidence of training and experience equivalent to a graduate
773 degree.

774 (c) Unless the permit is revoked or suspended, a survey permit is valid for the time
775 period specified in the permit by the Public Lands Policy Coordinating Office, which
776 may not exceed three years.

- 777 (3)(a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a
778 principal investigator shall, in addition to complying with Subsection (2)(a), submit:
- 779 (i) a research design to the Public Lands Policy Coordinating Office and the
780 Antiquities Section that:
- 781 (A) states the questions to be addressed;
782 (B) states the reasons for conducting the work;
783 (C) defines the methods to be used;
784 (D) describes the analysis to be performed;
785 (E) outlines the expected results and the plan for reporting;
786 (F) evaluates expected contributions of the proposed work to archaeological or
787 anthropological science; and
788 (G) estimates the cost and the time of the work that the principal investigator
789 believes is necessary to provide the maximum amount of historic, scientific,
790 archaeological, anthropological, and educational information; and
- 791 (ii) proof of permission from the landowner to enter the property for the purposes of
792 the permit.
- 793 (b) An excavation permit is valid for the amount of time specified in the permit, unless
794 the permit is revoked according to Subsection (9).
- 795 (c) The Public Lands Policy Coordinating Office may delegate to an agency the
796 authority to issue excavation permits if the agency:
- 797 (i) requests the delegation; and
798 (ii) employs or has a long-term contract with a principal investigator with a valid
799 survey permit.
- 800 (d) The Public Lands Policy Coordinating Office shall conduct an independent review of
801 the delegation authorized by Subsection (3)(c) every three years and may revoke the
802 delegation at any time without cause.
- 803 (4) The Public Lands Policy Coordinating Office shall:
- 804 (a) grant a survey permit to a principal investigator who meets the requirements of this
805 section; and
- 806 (b) grant an excavation permit to a principal investigator after approving, in consultation
807 with the Antiquities Section, the research design for the project.
- 808 (5) By following the procedures and requirements of Title 63G, Chapter 3, Utah
809 Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall,
810 after consulting with the Antiquities Section, make rules to:

- (a) establish survey methodology;
- (b) standardize report and data preparation and submission;
- (c) require other permit application information that the Public Lands Policy Coordinating Office finds necessary, including proof of consultation with the appropriate Native American tribe;
- (d) establish what training and experience is equivalent to a graduate degree;
- (e) establish requirements for a person authorized by Subsection (1)(b) to assist the principal investigator;
- (f) establish requirements for a principal investigator's employer, if applicable; and
- (g) establish criteria that, if met, would allow the Public Lands Policy Coordinating Office to reinstate a suspended permit.

(6) Each principal investigator shall submit a summary report of the work for each project to the Antiquities Section in a form prescribed by a rule established under Subsection (5)(b), which shall include copies of all:

- (a) site forms;
- (b) data;
- (c) maps;
- (d) drawings;
- (e) photographs; and
- (f) descriptions of specimens.

(7)(a) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from lands owned or controlled by the state or its political subdivisions, other than school and institutional trust lands, without permission from the Antiquities Section, and prior consultation with the landowner and any other agencies managing other interests in the land.

(b) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the Antiquities Section.

(c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a person may remove it by following the procedures established by the repository or curation facility.

(8)(a) Collections recovered from school and institutional trust lands are owned by the respective trust.

(b) Collections recovered from lands owned or controlled by the state or its subdivisions, other than school and institutional trust lands, are owned by the state.

(c) Within a reasonable time after the completion of fieldwork, each permit holder shall deposit all collections at the museum, a curation facility, or a repository.

(d) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated according to the rules made under the authority of Section ~~[53B-17-603]~~ 53H-4-211.

(9)(a) Upon complaint by an agency, the Public Lands Policy Coordinating Office shall investigate a principal investigator and the work conducted under a permit.

(b) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or suspend a permit if the principal investigator fails to conduct a survey or excavation according to law, the rules enacted by the Public Lands Policy Coordinating Office, or permit provisions.

(10)(a) Any person violating this section is guilty of a class B misdemeanor.

(b) A person convicted of violating this section, or found to have violated the rules authorized by this section, shall, in addition to any other penalties imposed, forfeit all archaeological resources discovered by or through the person's efforts to the state or the respective trust.

(11) The office may enter into memoranda of agreement to issue project numbers or to retain other data for federal lands or Native American lands within the state.

Section 6. Section **9-9-402** is amended to read:

9-9-402 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Antiquities Section" means the Antiquities Section of the State Historic Preservation Office.

(2) "Burial site" means a natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture individual human remains are deposited.

(3) "Cultural affiliation" means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian tribe and an identifiable earlier group.

(4) "Director" means the director of the Division of Indian Affairs.

(5) "Division" means the Division of Indian Affairs.

- 879 (6) "Indian tribe" means a tribe, band, nation, or other organized group or community of
880 Indians that is recognized as eligible for the special programs and services provided by
881 the United States to Indians because of their status as Indians.
- 882 (7) "Lineal descendant" means the genealogical descendant established by oral or written
883 record.
- 884 (8) "Native American" means of or relating to a tribe, people, or culture that is indigenous
885 to the United States.
- 886 (9) "Native American remains" means remains that are Native American.
- 887 (10)(a) "Nonfederal land" means land in the state that is not owned, controlled, or held
888 in trust by the federal government.
- 889 (b) "Nonfederal land" includes:
- 890 (i) land owned or controlled by:
- 891 (A) the state;
- 892 (B) a county, city, or town;
- 893 (C) an Indian tribe, if the land is not held in trust by the United States for the
894 Indian tribe or the Indian tribe's members; or
- 895 (D) a person other than the federal government; or
- 896 (ii) school and institutional trust lands as defined in Section 53C-1-103.
- 897 (11) "Partner agency" means an agency of the state or a tribal agency that participates in the
898 remains repatriation process.
- 899 (12) "Remains" means all or part of a physical individual and objects on or attached to the
900 physical individual that are placed there as part of the death rite or ceremony of a culture.
- 901 (13) "Review committee" means the Native American Remains Review Committee created
902 by Section 9-9-405.
- 903 (14)(a) "State land" means land owned by the state including the state's:
- 904 (i) legislative and judicial branches;
- 905 (ii) departments, divisions, agencies, boards, commissions, councils, and committees;
906 and
- 907 (iii) institutions of higher education as defined under Section ~~[53B-3-402]~~ 53H-1-101.
- 908 (b) "State land" does not include:
- 909 (i) land owned by a political subdivision of the state;
- 910 (ii) land owned by a school district;
- 911 (iii) private land; or
- 912 (iv) school and institutional trust lands as defined in Section 53C-1-103.

(15) "Tribal consultation" means the state and the tribes exchanging views and information, in writing or in person, regarding implementing proposed state action under this part that has or may have substantial implications for tribes including impacts on:

- (a) tribal cultural practices;
- (b) tribal lands;
- (c) tribal resources;
- (d) access to traditional areas of tribal cultural or religious importance; or
- (e) the consideration of the state's responsibilities to Indian tribes.

Section 7. Section **9-20-301** is amended to read:

9-20-301 (Effective upon governor's approval) (Repealed 07/01/27). One Utah Service Fellowship Program.

(1) As used in this section:

(a) "Education expense" means:

- (i) tuition or student fees at an institution of higher education that participates in the federal student assistance programs under the Higher Education Act of 1965, Title IV, 20 U.S.C. Sec. 1070 et seq.;
- (ii) repayment of a student loan; or
- (iii) other costs of attending an institution of higher education described in Subsection (1)(a)(i), as determined by the institution of higher education, for a degree or certificate program, including:
 - (A) books;
 - (B) supplies;
 - (C) transportation; and
 - (D) room and board.

(b) "Eligible recipient" means an individual who:

- (i) is a resident of the state;
- (ii) successfully completes a fellowship under the program created in this section; and
- (iii) is a citizen of the United States, a United States national, or a lawful permanent resident of the United States.

(c) "Federal requirements for the AmeriCorps program" means:

- (i) relevant provisions of:
 - (A) the National and Community Service Act of 1990, as amended, 42 U.S.C. 12501 et seq. and corresponding federal regulations;
 - (B) the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 et

- 947 seq. and corresponding federal regulations;
- 948 (C) the Federal Grant and Cooperative Agreement Act, as amended, 31 U.S.C.
- 949 Secs. 6301 through 6308, and corresponding federal regulations; and
- 950 (D) AmeriCorps' C.F.R. Chapters XII and XXV; and
- 951 (ii) any terms and conditions associated with AmeriCorps federal grant funding.
- 952 (d) "Institution of higher education" means ~~[an entity described in Section 53B-2-101]~~
- 953 the same as that term is defined in Section 53H-1-101.
- 954 (e) "Participant" means an individual who:
- 955 (i) is at least 17 years old;
- 956 (ii) has received a high school diploma or its equivalent; and
- 957 (iii) the program matches with a qualified partner organization to participate in a
- 958 program fellowship.
- 959 (f) "Program" means the One Utah Service Fellowship Program created in Subsection (2).
- 960 (g) "Qualified partner organization" means a nonprofit organization or government
- 961 entity that:
- 962 (i) agrees to supervise a participant for the total number of hours outlined in an
- 963 agreement with the commission;
- 964 (ii) except as provided in Subsection (4)(d) or (6), agrees to provide the commission
- 965 or third-party administrator with a matching living allowance amount, as
- 966 described in Subsection (5); and
- 967 (iii) provides a valuable service to the community, as determined by the commission
- 968 or commission rule.
- 969 (h) "State funds" means funds that are owned, held, or administered by the department to
- 970 administer the program as described in this section.
- 971 (i) "Supervise" means the act of overseeing the work of an eligible recipient, including
- 972 some component of in-person interaction.
- 973 (j) "Third-party administrator" means an entity that:
- 974 (i) enters into an agreement with the department, as described in Subsection (8);
- 975 (ii) is a nonprofit organization or subsidiary or affiliate of an institution of higher
- 976 education;
- 977 (iii) has experience managing programs and funds; and
- 978 (iv) operates under the direction of the commission.
- 979 (k) "Tuition award" means an amount of money to be used for an education expense, as
- 980 described in Subsection (7).

- 981 (2) There is created a One Utah Service Fellowship Program to provide meaningful service
982 opportunities to young adults in the state to:
- 983 (a) prepare young adults for additional educational, training, and career opportunities;
984 (b) address high-priority needs within the state; and
985 (c) provide a living allowance to a participant, a tuition award to an eligible recipient, or
986 both, in accordance with this section.
- 987 (3)(a) Subject to appropriations from the Legislature, the commission shall administer
988 the program as described in this section.
- 989 (b) Except as otherwise provided in an agreement authorized by Subsection (8)(b) the
990 commission:
- 991 (i) shall create and maintain a list of high-priority policy needs in the state where
992 program service opportunities can provide the most value to the state;
993 (ii) shall receive an application from a potential participant;
994 (iii) shall match a participant to a qualified partner organization for participation in
995 the program;
996 (iv) shall approve a potential qualified partner organization to participate in the
997 program;
998 (v) shall prioritize the placement of participants with qualified partner organizations
999 that address the high-priority policy needs identified under Subsection (3)(b)(i);
1000 (vi) shall create and maintain, or contract with a third-party to create and maintain, an
1001 online portal that:
- 1002 (A) provides information about the program, including required qualifications for
1003 participation, tuition awards, and living allowances;
1004 (B) lists all service opportunities with qualified partner organizations that are
1005 available through the program; and
1006 (C) allows a potential participant to apply for placement with a qualified partner
1007 organization;
1008 (vii) shall determine the metrics of success of the program, including metrics
1009 regarding whether an eligible recipient:
- 1010 (A) matriculates at an institution of higher education after completing a One Utah
1011 Service Fellowship; and
1012 (B) graduates from, or otherwise completes a program at, an institution of higher
1013 education;
1014 (viii) shall measure the success of the program according to the metrics determined

- 1015 under this Subsection (3);
- 1016 (ix) shall coordinate with institutions of higher education to:
- 1017 (A) connect an eligible recipient with additional educational, training,
- 1018 certification, and apprenticeship opportunities; and
- 1019 (B) explore options to award an eligible recipient with academic credit for the
- 1020 completion of a One Utah Service Fellowship, in addition to the living
- 1021 allowance or tuition award;
- 1022 (x) may solicit private donations to supplement the program, including to offset a
- 1023 matching amount required of a qualified partner organization as described in
- 1024 Subsection (4)(d);
- 1025 (xi) shall market and provide outreach for the program; and
- 1026 (xii) shall ensure the program complies with federal requirements for the AmeriCorps
- 1027 program administered by the commission.
- 1028 (c) The commission may make rules in accordance with Title 63G, Chapter 3, Utah
- 1029 Administrative Rulemaking Act, to implement this section.
- 1030 (4)(a) Before a participant begins providing service through the program, the
- 1031 commission or third-party administrator shall enter into an agreement with the
- 1032 participant that outlines the mutual expectations of the program and the participant.
- 1033 (b) The agreement described in Subsection (4)(a) shall detail the requirements of the
- 1034 participant, including:
- 1035 (i) the total number of hours of service required under the agreement;
- 1036 (ii) the exact living allowance amount promised to the participant in consideration of
- 1037 service, as described in Subsection (5);
- 1038 (iii) the exact tuition award amount promised to the participant upon successful
- 1039 completion of a fellowship, as described in Subsection (7);
- 1040 (iv) qualifications for and acceptable uses of the tuition award, as described in
- 1041 Subsection (7); and
- 1042 (v) the circumstances under which the agreement may be amended, including for
- 1043 participant hardship or compelling personal circumstance.
- 1044 (c)(i) Subject to Subsection (4)(c)(ii), before a qualified partner organization accepts
- 1045 service from a participant, the commission or third-party administrator shall enter
- 1046 into an agreement with the qualified partner organization that outlines the mutual
- 1047 expectations of the program and qualified partner organization, including the
- 1048 exact amount of matching funds the qualified partner organization shall provide to

the commission or third-party administrator to contribute to a participant's living allowance.

(ii) A qualified partner organization shall agree to contribute no less than \$5 per hour to a participant's living allowance, except as provided in Subsection (4)(d) or (6).

(d) The agreement described in Subsection (4)(c) may include a provision that the program is reducing the qualified partner organization's matching fund requirement due to the receipt of private donations or eligible federal funds, as described in Subsection (5)(c)(ii).

(5)(a) The commission may issue, and a participant may receive, a living allowance for participating in the program.

(b) The commission or third-party administrator shall establish the exact living allowance for a participant on a case-by-case basis in an agreement described in Subsection (4)(a) based on:

(i) available program funds; and

(ii) any matching funds provided by:

(A) the qualified partner organization with which the participant is paired;

(B) private donations to the program; or

(C) eligible federal funds.

(c)(i) Except as provided in Subsection (5)(c)(v) or (6), the commission or third-party administrator shall contribute no less than \$5 per hour and no more than \$8,500 of the living allowance for the term of the agreement, from state funds.

(ii) The commission or third-party administrator shall supplement the remaining balance of a participant's exact living allowance from other funds, including:

(A) matching funds provided to the commission or third-party administrator by a qualified partner organization;

(B) private donations to the program; or

(C) eligible federal funds.

(iii) The commission or third-party administrator shall prioritize a participant's placement with a qualified partner organization based on the amount of matching funds the qualified partner organization proposes to provide to the commission or third-party administrator under Subsection (5)(c)(ii)(A), with preference going to qualified partner organizations that offer to provide a larger living allowance.

(iv)(A) The living allowance and matching fund amounts shall be established based on the participant's total committed number of hours over the term of the

1083 agreement described in Subsection (4).

1084 (B) The commission or third-party administrator shall disburse the living
1085 allowance to a participant in equal installments over the term of the agreement,
1086 no less than on a monthly basis.

1087 (v) The commission or third-party administrator may contribute less than \$5 per hour
1088 of the living allowance from state funds when another source of eligible funding,
1089 including funding from federal programs, covers all or part of the living allowance
1090 for the term of the agreement.

1091 (6)(a) A qualified partner organization that is an institution of higher education, as
1092 defined in ~~[Section 53B-2-102]~~ Section 53H-1-101, may enter into an agreement with
1093 a participant for a tuition-only award under the program.

1094 (b) The agreement in Subsection (6)(a) shall comply with the requirements described in
1095 Subsections (4)(a), (4)(b)(i), and (4)(b)(iii) through (v).

1096 (c)(i) The director shall review the participation data collected under Subsection (6)(a)
1097 to determine whether the participation data supports continuing the tuition-only
1098 award under the program.

1099 (ii) If the participation data fails to support a tuition-only award under the program,
1100 the director may discontinue the tuition-only award under the program.

1101 (7)(a) The commission or third-party administrator shall provide or approve the issuance
1102 of a tuition award to an eligible recipient, according to the terms of the agreement
1103 described in Subsection (4), upon the successful completion of a fellowship.

1104 (b) The commission or third-party administrator shall establish the exact tuition award
1105 for an eligible recipient on a case-by-case basis in an agreement described in
1106 Subsection (4)(a).

1107 (c) The commission or third-party shall base the tuition award described in Subsection
1108 (7)(b) on federal requirements for the AmeriCorps program, including:

1109 (i) a maximum tuition award for 1,700 hours of service during the term of service; and
1110 (ii) a reduced tuition award for a reduced number of hours of service during the term
1111 of service.

1112 (d) An eligible recipient may use a tuition award:

1113 (i) for an eligible education expense;
1114 (ii) over a seven-year period beginning the day on which the eligible recipient
1115 receives the tuition award; and
1116 (iii) subject to the requirements of Subsection (7)(e).

(e) If the program uses state funds to supplement a tuition award:

(i) the commission or third-party administrator shall detail that information in an agreement described in Subsection (4)(a); and

(ii) an eligible recipient may only use the state funded portion of the tuition award after the eligible recipient has exhausted any scholarship, education grant, or financial aid.

(8) The department:

(a) shall provide staff support to the commission to implement the program; and

(b) may enter into an agreement with one or more third-party administrators to administer and implement the program under the direction of the commission, including by fulfilling one or more of the responsibilities described in Subsection (3).

Section 8. Section **9-22-102** is amended to read:

9-22-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in computer science, information technology, or computer engineering courses and career options.

(2) "Director" means the director appointed by the STEM board to oversee the administration of the STEM Action Center.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Foundation" means a foundation established as described in Subsections 9-22-104(3) and (4).

(5) "Fund" means the STEM Action Center Foundation Fund created in Section 9-22-105.

(6) "Grant program" means the Computing Partnerships Grants program created in this part.

(7) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.

(8) "Institution of higher education" means ~~[an institution listed in Section 53B-1-102]~~ the same as that term is defined in Section 53H-1-101.

(9) "K-16" means kindergarten through grade 12 and post-secondary education programs.

(10) "Provider" means a provider selected on behalf of the STEM board by the staff of the STEM board and the staff of the State Board of Education:

(a) through a request for proposals process; or

(b) through a direct award or sole source procurement process for a pilot described in Section 9-22-107.

- 1151 (11) "Review committee" means the committee established under Section 9-22-114.
- 1152 (12) "Stacked credentials" means credentials that:
- 1153 (a) an individual can build upon to access an advanced job or higher wage;
- 1154 (b) are part of a career pathway system;
- 1155 (c) provide a pathway culminating in the equivalent of an associate's or bachelor's
- 1156 degree;
- 1157 (d) facilitate multiple exit and entry points; and
- 1158 (e) recognize sub-goals or momentum points.
- 1159 (13) "STEM" means science, technology, engineering, and mathematics.
- 1160 (14) "STEM Action Center" means the center described in Section 9-22-106.
- 1161 (15) "STEM board" means the STEM Action Center Board created in Section 9-22-103.
- 1162 (16) "Talent Ready Program" means the Talent Ready Utah Program created in Section [
- 1163 ~~53B-34-103~~] 53H-13-303.
- 1164 Section 9. Section **9-22-106** is amended to read:
- 1165 **9-22-106 (Effective upon governor's approval). STEM Action Center.**
- 1166 (1) The STEM board shall:
- 1167 (a) establish a STEM Action Center;
- 1168 (b) ensure that the STEM Action Center:
- 1169 (i) is accessible to the public; and
- 1170 (ii) includes the components described in Subsection (2);
- 1171 (c) work cooperatively with the State Board of Education to:
- 1172 (i) further STEM education; and
- 1173 (ii) ensure best practices are implemented as described in Sections 9-22-107 and
- 1174 9-22-108;
- 1175 (d) engage private entities to provide financial support or employee time for STEM
- 1176 activities in schools in addition to what is currently provided by private entities; and
- 1177 (e) work cooperatively with stakeholders to support and promote activities that align
- 1178 STEM education and training activities with the employment needs of business and
- 1179 industry in the state.
- 1180 (2) As funding allows, the director of the STEM Action Center shall:
- 1181 (a) support high quality professional development for educators regarding STEM
- 1182 education;
- 1183 (b) ensure that the STEM Action Center acts as a research and development center for
- 1184 STEM education through a request for proposals process described in Section

- 1185 9-22-107;
- 1186 (c) review and acquire STEM education related materials and products for:
- 1187 (i) high quality professional development;
- 1188 (ii) assessment, data collection, analysis, and reporting; and
- 1189 (iii) public school instruction;
- 1190 (d) facilitate participation in interscholastic STEM related competitions, fairs, camps,
- 1191 and STEM education activities;
- 1192 (e) engage private industry in the development and maintenance of the STEM Action
- 1193 Center and STEM Action Center projects;
- 1194 (f) use resources to bring the latest STEM education learning tools into public education
- 1195 classrooms;
- 1196 (g) identify at least 10 best practice innovations used in Utah that have resulted in a
- 1197 measurable improvement in student performance or outcomes in STEM areas;
- 1198 (h) identify best practices being used outside the state and, as appropriate, develop and
- 1199 implement selected practices through a pilot program;
- 1200 (i) identify:
- 1201 (i) learning tools for kindergarten through grade 6 identified as best practices; and
- 1202 (ii) learning tools for grades 7 through 12 identified as best practices;
- 1203 (j) collect data on Utah best practices, including best practices from public education,
- 1204 higher education, the Utah Education and Telehealth Network, and other STEM
- 1205 related entities;
- 1206 (k) keep track of the following items related to best practices described in Subsection
- 1207 (2)(j):
- 1208 (i) how the best practices data are being used; and
- 1209 (ii) how many individuals are using the data, including the demographics of the users,
- 1210 if available;
- 1211 (l) as appropriate, join and participate in a national STEM network;
- 1212 (m) work cooperatively with the State Board of Education to designate schools as STEM
- 1213 schools, where the schools have agreed to adopt a plan of STEM implementation in
- 1214 alignment with criteria set by the State Board of Education and the board;
- 1215 (n) support best methods of high quality professional development for STEM education
- 1216 in kindergarten through grade 12, including methods of high quality professional
- 1217 development that reduce cost and increase effectiveness, to help educators learn how
- 1218 to most effectively implement best practice learning tools in classrooms;

- 1219 (o) recognize achievement in the STEM competitions, fairs, and camps described in
1220 Subsection (2)(d);
- 1221 (p) send student results from STEM competitions, fairs, and camps described in
1222 Subsection (2)(d) to media and ask the media to report on them;
- 1223 (q) develop and distribute STEM information to parents of students in the state;
- 1224 (r) support targeted high quality professional development for improved instruction in
1225 STEM education, including:
- 1226 (i) improved instructional materials that are dynamic and engaging for students;
- 1227 (ii) use of applied instruction; and
- 1228 (iii) introduction of other research-based methods that support student achievement in
1229 STEM areas; and
- 1230 (s) ensure that an online college readiness assessment tool be accessible by:
- 1231 (i) public education students; and
- 1232 (ii) higher education students.
- 1233 (3) The STEM board may prescribe other duties for the STEM Action Center in addition to
1234 the responsibilities described in this section.
- 1235 (4)(a) The director shall work with an independent evaluator to track and compare the
1236 student performance of students participating in a STEM Action Center program to
1237 all other similarly situated students in the state, if appropriate, in the following
1238 activities:
- 1239 (i) public education high school graduation rates;
- 1240 (ii) the number of students taking a remedial mathematics course at an institution of
1241 higher education [~~described~~] listed in Section [~~53B-2-101~~] 53H-1-102;
- 1242 (iii) the number of students who graduate from a Utah public school and begin a
1243 postsecondary education program; and
- 1244 (iv) the number of students, as compared to all similarly situated students, who are
1245 performing at grade level in STEM classes.
- 1246 (b) The State Board of Education and the Utah Board of Higher Education shall provide
1247 information to the STEM board to assist the STEM board in complying with the
1248 requirements of Subsection (4)(a) if allowed under federal law.
- 1249 Section 10. Section **9-22-112** is amended to read:
- 1250 **9-22-112 (Effective upon governor's approval). High school STEM education**
1251 **initiative.**
- 1252 (1) Subject to legislative appropriations, after consulting with State Board of Education

staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.

- (2)(a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.
- (b) A school district's or charter school's STEM related certification training program shall:
- (i) prepare high school students to be job ready for available STEM related positions of employment; and
 - (ii) when a student completes the program, result in the student gaining an industry-recognized employer STEM related certification.

- (3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:

- (a) a technical college described in Section ~~[53B-2a-105]~~ 53H-3-1202;
- (b) Salt Lake Community College;
- (c) Snow College;
- (d) Utah State University Eastern;
- (e) Utah State University Blanding; or
- (f) a private sector employer.

Section 11. Section **9-22-113** is amended to read:

9-22-113 (Effective upon governor's approval). Computer science initiative for public schools.

- (1) As used in this section:
- (a) "Computational thinking" means the set of problem-solving skills and techniques that software engineers use to write programs that underlie computer applications, including decomposition, pattern recognition, pattern generalization, and algorithm design.
 - (b) "Computer coding" means the process of writing script for a computer program or mobile device.
 - (c) "Educator" means the same as that term is defined in Section 53E-6-102.
 - (d) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies the areas of practice to which the license applies.
 - (e)~~(f)~~ "Institution of higher education" means the same as that term is defined in Section ~~[53B-3-102]~~ 53H-1-101.

- 1287 ~~[(ii) "Institution of higher education" includes a technical college described in~~
1288 ~~Section 53B-2a-105.]~~
- 1289 (f) "Employer" means a private employer, public employer, industry association, union,
1290 or the military.
- 1291 (g) "License" means the same as that term is defined in Section 53E-6-102.
- 1292 (2) Subject to legislative appropriations, on behalf of the STEM board, the staff of the
1293 STEM board and the staff of the State Board of Education shall collaborate to develop
1294 and implement a computer science initiative for public schools by:
- 1295 (a) creating an online repository that:
- 1296 (i) is available for school districts and charter schools to use as a resource; and
1297 (ii) includes high quality computer science instructional resources that are designed
1298 to teach students in all grade levels:
- 1299 (A) computational thinking skills; and
1300 (B) computer coding skills;
- 1301 (b) providing for professional development on teaching computer science by:
- 1302 (i) including resources for educators related to teaching computational thinking and
1303 computer coding in the STEM education high quality professional development
1304 application described in Section 9-22-110; and
1305 (ii) providing statewide or regional professional development institutes; and
- 1306 (c) awarding grants to a school district or charter school, on a competitive basis, that
1307 may be used to provide incentives for an educator to earn a computer science
1308 endorsement.
- 1309 (3) A school district or charter school may enter into an agreement with one or more of the
1310 following entities to jointly apply for a grant under Subsection (2)(c):
- 1311 (a) a school district;
1312 (b) a charter school;
1313 (c) an employer;
1314 (d) an institution of higher education; or
1315 (e) a non-profit organization.
- 1316 (4) To apply for a grant described in Subsection (2)(c), a school district or charter school
1317 shall submit a plan to the State Board of Education for the use of the grant, including a
1318 statement of purpose that describes the methods the school district or charter school
1319 proposes to use to incentivize an educator to earn a computer science endorsement.
- 1320 (5) The State Board of Education and the STEM board shall encourage schools to

independently pursue computer science and coding initiatives, subject to local school board or charter school governing board approval, based on the unique needs of the school's students.

- (6) The STEM board shall include information on the status of the computer science initiative in the annual report described in Section 9-22-109.

Section 12. Section **10-9a-210** is amended to read:

10-9a-210 (Effective upon governor's approval). Notice to municipality when a private institution of higher education is constructing student housing.

- (1) Each ~~[private institution of higher education]~~ private postsecondary educational institution, as defined in Section 53H-1-101, that intends to construct student housing on property owned by the institution shall provide written notice of the intended construction, as provided in Subsection (2), before any funds are committed to the construction, if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

- (2) Each notice under Subsection (1) shall be provided to the legislative body and, if applicable, the mayor of:

- (a) the county in whose unincorporated area the privately owned residential property is located; or
- (b) the municipality in whose boundaries the privately owned residential property is located.

- (3) At the request of a county or municipality that is entitled to notice under this section, the institution and the legislative body of the affected county or municipality shall jointly hold a public hearing to provide information to the public and receive input from the public about the proposed construction.

Section 13. Section **11-13a-102** is amended to read:

11-13a-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

- (1) "Controlling interest" means that one or more governmental entities collectively represent a majority of the board's voting power as outlined in the nonprofit corporation's governing documents.
- (2)(a) "Governing board" means the body that governs a governmental nonprofit corporation.
- (b) "Governing board" includes a board of directors.
- (3) "Governmental entity" means the state, a county, a municipality, a special district, a

special service district, a school district, [~~a state~~] an institution of higher education, as defined in Section 53H-1-101, or any other political subdivision or administrative unit of the state.

(4)(a) "Governmental nonprofit corporation" means:

(i) a nonprofit corporation that is wholly owned or wholly controlled by one or more governmental entities, unless the nonprofit corporation receives no operating funding or other financial support from any governmental entity; or

(ii) a nonprofit corporation in which one or more governmental entities exercise a controlling interest and:

(A) that exercises taxing authority;

(B) that imposes a mandatory fee for association or participation with the nonprofit corporation where that association or participation is mandated by law; or

(C) that receives a majority of the nonprofit corporation's operating funding from one or more governmental entities under the nonprofit corporation's governing documents, except where voluntary membership fees, dues, or assessments compose the operating funding.

(b) "Governmental nonprofit corporation" does not include:

(i) a water company, as that term is defined in Section 16-4-102, unless the water company is wholly owned by one or more governmental entities; or

(ii) the Utah Association of Special Districts.

(5) "Municipality" means a city or town.

Section 14. Section **11-17-2** is amended to read:

11-17-2 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Clean energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from clean resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

- 1389 (ii) a ground source heat pump system;
- 1390 (e) a micro-hydro system;
- 1391 (f) nuclear fuel;
- 1392 (g) carbon capture utilization and sequestration; or
- 1393 (h) another clean energy system approved by the governing body.
- 1394 (3) "Energy efficiency upgrade" means an improvement that is permanently affixed to real
- 1395 property and that is designed to reduce energy consumption, including:
- 1396 (a) insulation in:
- 1397 (i) a wall, ceiling, roof, floor, or foundation; or
- 1398 (ii) a heating or cooling distribution system;
- 1399 (b) an insulated window or door, including:
- 1400 (i) a storm window or door;
- 1401 (ii) a multiglazed window or door;
- 1402 (iii) a heat-absorbing window or door;
- 1403 (iv) a heat-reflective glazed and coated window or door;
- 1404 (v) additional window or door glazing;
- 1405 (vi) a window or door with reduced glass area; or
- 1406 (vii) other window or door modifications that reduce energy loss;
- 1407 (c) an automatic energy control system;
- 1408 (d) in a building or a central plant, a heating, ventilation, or air conditioning and
- 1409 distribution system;
- 1410 (e) caulking or weatherstripping;
- 1411 (f) a light fixture that does not increase the overall illumination of a building unless an
- 1412 increase is necessary to conform with the applicable building code;
- 1413 (g) an energy recovery system;
- 1414 (h) a daylighting system;
- 1415 (i) measures to reduce the consumption of water, through conservation or more efficient
- 1416 use of water, including:
- 1417 (i) installation of a low-flow toilet or showerhead;
- 1418 (ii) installation of a timer or timing system for a hot water heater; or
- 1419 (iii) installation of a rain catchment system; or
- 1420 (j) any other modified, installed, or remodeled fixture that is approved as a utility
- 1421 cost-savings measure by the governing body.
- 1422 (4) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or

1423 state university for the purpose of using a portion, or all or substantially all of the
1424 proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for
1425 the costs of the acquisition of facilities of a project, or to create funds for the project
1426 itself where appropriate, whether these costs are incurred by the municipality, the
1427 county, the state university, the user, or a designee of the user. If title to or in these
1428 facilities at all times remains in the user, the bonds of the municipality or county shall be
1429 secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured
1430 debt obligations of the user or lender, or the sinking fund or other arrangement as in the
1431 judgment of the governing body is appropriate for the purpose of assuring repayment of
1432 the bond obligations to investors in accordance with their terms.

1433 (5) "Governing body" means:

- 1434 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 1435 (b) for the Utah Inland Port Authority created in Section 11-58-201, the board, as
1436 defined in Section 11-58-102;
- 1437 (c) for the military installation development authority created in Section 63H-1-201, the
1438 board, as defined in Section 63H-1-102;
- 1439 (d) for a state university except as provided in Subsection (5)(e), the board or body
1440 having the control and supervision of the state university; and
- 1441 (e) for a nonprofit corporation or foundation created by and operating under the auspices
1442 of a state university, the board of directors or board of trustees of that corporation or
1443 foundation.

1444 (6)(a) "Industrial park" means land, including all necessary rights, appurtenances,
1445 easements, and franchises relating to it, acquired and developed by a municipality,
1446 county, or state university for the establishment and location of a series of sites for
1447 plants and other buildings for industrial, distribution, and wholesale use.

- 1448 (b) "Industrial park" includes the development of the land for an industrial park under
1449 this chapter or the acquisition and provision of water, sewerage, drainage, street,
1450 road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or
1451 docking facilities, or any combination of them, but only to the extent that these
1452 facilities are incidental to the use of the land as an industrial park.

1453 (7) "Lender" means a trust company, savings bank, savings and loan association, bank,
1454 credit union, or any other lending institution that lends, loans, or leases proceeds of a
1455 financing to the user or a user's designee.

1456 (8) "Mortgage" means a mortgage, trust deed, or other security device.

- 1457 (9) "Municipality" means any incorporated city or town in the state, including cities or
1458 towns operating under home rule charters.
- 1459 (10) "Pollution" means any form of environmental pollution including water pollution, air
1460 pollution, pollution caused by solid waste disposal, thermal pollution, radiation
1461 contamination, or noise pollution.
- 1462 (11)(a) "Project" means:
- 1463 (i) an industrial park, land, interest in land, building, structure, facility, system,
1464 fixture, improvement, appurtenance, machinery, equipment, or any combination
1465 of them, whether or not in existence or under construction:
- 1466 (A) that is suitable for industrial, manufacturing, warehousing, research, business,
1467 and professional office building facilities, commercial, shopping services,
1468 food, lodging, low income rental housing, recreational, or any other business
1469 purposes;
- 1470 (B) that is suitable to provide services to the general public;
- 1471 (C) that is suitable for use by any corporation, person, or entity engaged in health
1472 care services, including hospitals, nursing homes, extended care facilities,
1473 facilities for the care of persons with a physical or mental disability, and
1474 administrative and support facilities; or
- 1475 (D) that is suitable for use by a state university for the purpose of aiding in the
1476 accomplishment of its authorized academic, scientific, engineering, technical,
1477 and economic development functions;
- 1478 (ii) any land, interest in land, building, structure, facility, system, fixture,
1479 improvement, appurtenance, machinery, equipment, or any combination of them,
1480 used by any individual, partnership, firm, company, corporation, public utility,
1481 association, trust, estate, political subdivision, state agency, or any other legal
1482 entity, or its legal representative, agent, or assigns, for the reduction, abatement, or
1483 prevention of pollution, including the removal or treatment of any substance in
1484 process material, if that material would cause pollution if used without the
1485 removal or treatment;
- 1486 (iii) an energy efficiency upgrade;
- 1487 (iv) a clean energy system;
- 1488 (v) facilities, machinery, or equipment, the manufacturing and financing of which
1489 will maintain or enlarge domestic or foreign markets for Utah industrial products;
1490 or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(12) "State university" means an institution of higher education ~~[as described]~~ listed in Section ~~[53B-2-101]~~ 53H-1-102 and includes any nonprofit corporation or foundation created by and operating under~~[their]~~ the institution of higher education's authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 15. Section **11-17-3** is amended to read:

11-17-3 (Effective upon governor's approval). Powers of municipalities, counties, and state universities.

(1) A municipality, county, and state university may:

(a) finance or acquire, whether by construction, purchase, devise, gift, exchange, or lease, or any one or more of those methods, and construct, reconstruct, improve, maintain, equip, and furnish or fund one or more projects, within this state, and which shall be located within, or partially within, the municipality or county or within the county within which a state university is located, unless an agreement under ~~[Title 11, Chapter 13, Interlocal Cooperation Act]~~ Chapter 13, Interlocal Cooperation Act, has been entered into as authorized by Subsection (5), except that if a governing body finds, by resolution, that the effects of international trade practices have been or will be adverse to Utah manufacturers of industrial products and, therefore, it is desirable to finance a project in order to maintain or enlarge domestic or foreign markets for Utah industrial products, a project may consist of the financing on behalf of a user of the costs of acquiring industrial products manufactured in, and which are to be exported from, the state;

(b) finance for, sell, lease, contract the management of, or otherwise dispose of to, any person, firm, partnership, or corporation, either public or private, including without

- 1525 limitation any person, firm, partnership, or corporation engaged in business for a
1526 profit, any or all of its projects upon the terms and conditions as the governing body
1527 considers advisable and which do not conflict with this chapter;
- 1528 (c) issue revenue bonds for the purpose of defraying the cost of financing, acquiring,
1529 constructing, reconstructing, improving, maintaining, equipping, furnishing, or
1530 funding any project and secure the payment of the bonds as provided in this chapter,
1531 which revenue bonds may be issued in one or more series or issues where considered
1532 advisable, and each series or issue may contain different maturity dates, interest rates,
1533 priorities on securities available for guaranteeing payment of them, and other
1534 differing terms and conditions considered necessary and not in conflict with this
1535 chapter;
- 1536 (d)(i) grant options to renew any lease with respect to any project and to buy any
1537 project at a price the governing body considers desirable; and
- 1538 (ii) sell and convey any real or personal property acquired under Subsection (1)(a) at
1539 public or private sale, and make an order respecting the sale considered conducive
1540 to the best interests of the municipality, county, or state university, the sale or
1541 conveyance to be subject to the terms of any lease but to be free and clear of any
1542 other encumbrance;
- 1543 (e) establish, acquire, develop, maintain, and operate industrial parks; and
- 1544 (f) offer to the holders of its bonds issued under this chapter the right, where its
1545 governing body considers it appropriate, to convert the bonds or some portion of the
1546 bond obligation into an equity position in some or all of the assets developed with the
1547 proceeds of the bond offering.
- 1548 (2)(a) An economic development or new venture investment fund is considered to be
1549 located in the municipality or county where its headquarters is located or where any
1550 office of it is located, if it is headquartered within the state.
- 1551 (b) An economic development or new venture investment fund need not make all of its
1552 investments within the state or the county or municipality, if it:
- 1553 (i) locates within the state, the county, or the municipality its headquarters where its
1554 actual investment decisions and management functions occur; and
- 1555 (ii) limits the aggregate amount of its investments in companies located outside the
1556 state to an amount which in the aggregate does not exceed the aggregate amount
1557 of investments made by institutions and funds located outside the state in
1558 companies headquartered in Utah which the locally managed fund has sponsored

or in which it has invested and which it has brought to the attention of investors outside the state.

(c)(i) For purposes of enabling an offering of bonds to fund a fund described in this Subsection (2), a certification of an executive managerial officer of the manager of the fund of the intention to comply with this provision may be relied upon.

(ii) A fund shall at least annually certify to the governmental offeror of the bonds its compliance with this provision.

(3)(a) Before any municipality, county, or state university issues revenue bonds under this chapter for the purpose of defraying the cost of acquiring, constructing, reconstructing, improving, maintaining, equipping, or furnishing any industrial park project, the governing body of the state university, county, or municipality shall:

(i) adopt and establish a plan of development for the tracts of land to constitute the industrial park; and

(ii) by resolution, find:

(A) that the project for the establishment of the industrial park is well conceived and has a reasonable prospect of success, and that the project will tend to provide proper economic development of the municipality or county and will encourage industry to locate within or near the municipality or county; or

(B) in the case of state universities, will further, through industrial research and development, the instructional progress of the state university.

(b) There may be included as a part of any plan of development for any industrial park:

(i) zoning regulations, including:

(A) restrictions on usage of sites within the boundaries of the industrial park;

(B) minimum size of sites; and

(C) parking and loading regulations; and

(ii) methods for the providing and furnishing of police and fire protection and for the furnishing of other municipal or county services which are considered necessary in order to provide for the maintenance of the public health and safety.

(c) If any water or sewerage facilities are to be acquired as part of the development of the land for an industrial park under this chapter, water and sewerage facilities may be acquired as part of the issue of bonds issued under this chapter, through the issuance of bonds payable from water and sewer charges as provided by law, in combination with an issue of refunding bonds, in combination with an issue of bonds upon the consent of the holders of outstanding bonds issued for the same purpose, in

combination with bonds issued for the purposes of financing water and sewer facilities which will not be a part of an industrial park, or in any combination of the foregoing.

(d)(i) A municipality, county, or state university establishing an industrial park may lease any land acquired and developed as part of an industrial park to one or more lessees.

(ii) The lessee may sublease all or a portion of the land so leased from the municipality or county.

(iii) A municipality, county, or state university may sell or lease land in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park project.

(iv) A lease or sale of land shall be undertaken only after the adoption by the governing body of a resolution authorizing the lease or sale of the land for industrial park purposes.

(4)(a)(i) A municipality, county, or state university may not:

(A) operate any project under this section, as a business or in any other manner, except as the lessor or administrator of it; or

(B) acquire any project, or any part of it, by condemnation.

(ii) The provisions of Subsection (4)(a)(i) do not apply to projects involving research conducted, administered, or managed by a state university.

(b) Except for a project described in Subsection 11-17-2(10)(a)(ii) or (vi), a municipality, county, or state university may not, under this chapter, acquire or lease projects, or issue revenue bonds for the purpose of defraying the cost of any project or part of it, used for the generation, transmission, or distribution of electric energy beyond the project site, or the production, transmission, or distribution of natural gas.

(5)(a) A municipality, county, or state university may enter, either before or after the bonds have been issued, into interlocal agreements under [~~Title 11, Chapter 13, Interlocal Cooperation Act~~] Chapter 13, Interlocal Cooperation Act, with one or more municipalities, counties, state universities, or special service districts created under Title 17D, Chapter 1, Special Service District Act, in order to accomplish economies of scale or other cost savings and any other additional purposes to be specified in the interlocal agreement, for the issuance of bonds under this chapter on behalf of all of the signatories to the interlocal agreement by one of the municipalities, counties, or state universities which is a signatory to the interlocal agreement for the financing or

1627 acquisition of projects qualifying as a project.

1628 (b) For all purposes of Section 11-13-207 the signatory to the interlocal agreement
1629 designated as the issuer of the bonds constitutes the administrator of the interlocal
1630 agreement.

1631 (6) Notwithstanding the provisions of Subsection (4), the governing body of any state
1632 university owning or desiring to own facilities or administer projects may:

1633 (a) become a signatory to the interlocal agreement under Subsection (5);

1634 (b) enter into a separate security agreement with the issuer of the bonds, as provided in
1635 Section 11-17-5 for the financing or acquisition of a project to be owned by the state
1636 university;

1637 (c) enter into agreements to secure the obligations of the state university under a security
1638 agreement entered into under Subsection (6)(b), or to provide liquidity for the
1639 obligations including, without limitation, letter of credit agreements with banking
1640 institutions for letters of credit or for standby letters of credit, reimbursement
1641 agreements with financial institutions, line of credit agreements, standby bond
1642 purchase agreements, and to provide for payment of fees, charges, and other amounts
1643 coming due under the agreements entered into under the authority contained in this
1644 Subsection (6)(c);

1645 (d) provide in security agreements entered into under Subsection (6)(b) and in
1646 agreements entered into under Subsection (6)(c) that the obligations of the state
1647 university under an agreement shall be special obligations payable solely from the
1648 revenues derived from the operation or management of the project, owned by the
1649 state university and from net profits from proprietary activities and any other
1650 revenues pledged other than appropriations by the Utah Legislature, and the
1651 governing body of the state university shall pledge all or any part of the revenues to
1652 the payment of its obligations under an agreement; and

1653 (e) in order to secure the prompt payment of the obligations of the state university under
1654 a security agreement entered into under Subsection (6)(b) or an agreement entered
1655 into under Subsection (6)(c) and the proper application of the revenues pledged to
1656 them, covenant and provide appropriate provisions in an agreement to the extent
1657 allowed under Section ~~[53B-21-102]~~ 53H-9-303.

1658 (7) Notwithstanding the provisions of Subsection (4), the governing body of any
1659 municipality, county, or special service district owning, desiring to own, or
1660 administering projects or facilities may:

- 1661 (a) become a signatory to the interlocal agreement provided in Subsection (5);
- 1662 (b) enter into a separate security agreement with the issuer of the bonds, as provided in
- 1663 Section 11-17-5, for the financing or acquisition of a project to be owned by the
- 1664 municipality, county, or special service district, except that no municipality, county,
- 1665 or special service district may mortgage the facilities financed or acquired;
- 1666 (c) enter into agreements to secure the obligations of the municipality, county, or special
- 1667 service district, as the case may be, under a security agreement entered into under
- 1668 Subsection (7)(b), or to provide liquidity for the obligations including, without
- 1669 limitation, letter of credit agreements with banking institutions for letters of credit or
- 1670 for standby letters of credit, reimbursement agreements with financial institutions,
- 1671 line of credit agreements, standby bond purchase agreements, and to provide for
- 1672 payment of fees, charges, and other amounts coming due under the agreements
- 1673 entered into under the authority contained in this Subsection (7)(c);
- 1674 (d) provide in security agreements entered into under Subsection (7)(b) and in
- 1675 agreements entered into under Subsection (7)(c) that the obligations of the
- 1676 municipality, county, or special service district, as the case may be, under an
- 1677 agreement shall be special obligations payable solely from the revenues derived from
- 1678 the operation or management of the project, owned by the municipality, county, or
- 1679 special service district and the governing body of the municipality, county, or special
- 1680 service district shall pledge all or any part of the revenues to the payment of its
- 1681 obligations under an agreement; and
- 1682 (e) in order to secure the prompt payment of obligations under a security agreement
- 1683 entered into under Subsection (7)(b) or an agreement entered into under Subsection
- 1684 (7)(c) and the proper application of the revenues pledged to them, covenant and
- 1685 provide appropriate provisions in an agreement to the extent permitted and provided
- 1686 for with respect to revenue obligations under Section 11-14-306.
- 1687 (8) In connection with the issuance of bonds under this chapter, a municipality, county, or
- 1688 state university may:
- 1689 (a) provide for the repurchase of bonds tendered by their owners and may enter into an
- 1690 agreement to provide liquidity for the repurchases, including a letter of credit
- 1691 agreement, line of credit agreement, standby bond purchase agreement, or other type
- 1692 of liquidity agreement;
- 1693 (b) enter into remarketing, indexing, tender agent, or other agreements incident to the
- 1694 financing of the project or the performance of the issuer's obligations relative to the

bonds; and

- (c) provide for payment of fees, charges, and other amounts coming due under the agreements entered into under Subsection (6).

Section 16. Section **11-36a-202** is amended to read:

11-36a-202 (Effective upon governor's approval). Prohibitions on impact fees.

- (1) A local political subdivision or private entity may not:

- (a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development; or

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;

- (b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

- (c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

- (2)(a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

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

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

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

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

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

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) ~~[a state]~~ an institution of higher education or private postsecondary

- 1729 educational institution, as defined in Section 53H-1-101, that has ~~[its own]~~ a
1730 police force;
- 1731 (v) on development activity on state-owned land, as defined in Section 11-70-101; or
1732 (vi) on development activity that consists of the construction of an internal accessory
1733 dwelling unit, as defined in Section 10-9a-530, within an existing primary
1734 dwelling.
- 1735 (b)(i) Notwithstanding any other provision of this chapter, a political subdivision or
1736 private entity may not impose an impact fee on development activity that consists
1737 of the construction of a school, whether by a school district or a charter school, if:
1738 (A) the school is intended to replace another school, whether on the same or a
1739 different parcel;
1740 (B) the new school creates no greater demand or need for public facilities than the
1741 school or school facilities, including any portable or modular classrooms that
1742 are on the site of the replaced school at the time that the new school is
1743 proposed; and
1744 (C) the new school and the school being replaced are both within the boundary of
1745 the local political subdivision or the jurisdiction of the private entity.
- 1746 (ii) If the imposition of an impact fee on a new school is not prohibited under
1747 Subsection (2)(b)(i) because the new school creates a greater demand or need for
1748 public facilities than the school being replaced, the impact fee shall be based only
1749 on the demand or need that the new school creates for public facilities that
1750 exceeds the demand or need that the school being replaced creates for those public
1751 facilities.
- 1752 (c) Notwithstanding any other provision of this chapter, a political subdivision or private
1753 entity may impose an impact fee for a road facility on the state only if and to the
1754 extent that:
1755 (i) the state's development causes an impact on the road facility; and
1756 (ii) the portion of the road facility related to an impact fee is not funded by the state
1757 or by the federal government.
- 1758 (3) Notwithstanding any other provision of this chapter, a local political subdivision may
1759 impose and collect impact fees on behalf of a school district if authorized by Section
1760 11-36a-206.
- 1761 Section 17. Section **11-41-102** is amended to read:
1762 **11-41-102 (Effective upon governor's approval). Definitions.**

As used in this chapter:

- (1) "Agreement" means an oral or written agreement between a public entity and a person.
- (2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.
- (3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.
- (4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.
- (5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.
- (6) "General plan" means the same as that term is defined in Section 23A-6-101.
- (7) "Legislative body" means the same as that term is defined in:
 - (a) Section 10-9a-103; or
 - (b) Section 17-27a-103.
- (8) "Mixed-use development" means development with mixed land uses, including housing.
- (9) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.
- (10) "Moderate income housing plan" means the moderate income housing plan element of a general plan.
- (11) "Office" means the Governor's Office of Economic Opportunity.
- (12) "Political subdivision" means any county, city, town, school district, special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under ~~[Title 11,]~~ Chapter 13, Interlocal Cooperation Act.
- (13) "Public entity" means:
 - (a) a political subdivision;
 - (b) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state;
 - (c) ~~[a higher education institution]~~ an institution of higher education as defined in Section ~~[53B-1-201]~~ 53H-1-101;
 - (d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(14) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(15) "Public infrastructure" means:

(a) a public facility, as defined in Section 11-36a-102;

(b) a system improvement, as defined in Section 11-36a-102; or

(c) infrastructure developed with public funds included as part of an infrastructure master plan related to a general plan.

(16) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(17) "Retail facility incentive payment" means a payment of public funds:

(a) to a person by a public entity;

(b) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(c) in the form of:

(i) a payment;

(ii) a rebate;

(iii) a refund;

(iv) a subsidy; or

(v) any other similar incentive, award, or offset.

(18) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(19)(a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 18. Section **11-70-101** is amended to read:

11-70-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

- 1831 (1) "Base taxable value" means the taxable value of land within the fairpark district
1832 boundary as of January 1, 2024, as determined under Subsection 11-70-206(9).
- 1833 (2) "Board" means the fairpark district's governing body, created in Section 11-70-301.
- 1834 (3) "Designated parcel" means a parcel of land specified in a designation resolution.
- 1835 (4) "Designation resolution" means a resolution adopted by the board that designates a
1836 transition date for the parcel specified in the resolution.
- 1837 (5) "Development" means:
- 1838 (a) the demolition, construction, reconstruction, modification, expansion, or
1839 improvement of a building, utility, infrastructure, landscape, parking lot, park, trail,
1840 recreational amenity, or other facility, including public infrastructure and
1841 improvements; and
- 1842 (b) the planning of, arranging for, or participation in any of the activities listed in
1843 Subsection (5)(a).
- 1844 (6) "Development project" means a project for the development of land within a project
1845 area.
- 1846 (7) "District sales tax area" means an area described in and established as provided in
1847 Subsection 11-70-206(10).
- 1848 (8) "Enhanced property tax revenue":
- 1849 (a) means the amount of money that is equal to the difference between:
- 1850 (i) the amount of property tax revenues generated in a tax year by all taxing entities
1851 from privately owned land, using the current assessed value of the property; and
- 1852 (ii) the amount of property tax revenues that would be generated in the same tax year
1853 by all taxing entities from that same area using the base taxable value of the
1854 property; and
- 1855 (b) does not include property tax revenue from:
- 1856 (i) a county additional property tax or multicounty assessing and collecting levy
1857 imposed in accordance with Section 59-2-1602;
- 1858 (ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330;
1859 or
- 1860 (iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general
1861 obligation bond.
- 1862 (9) "Facilities division" means the Division of Facilities Construction and Management,
1863 created in Section 63A-5b-301.
- 1864 (10) "Fair park authority" means the State Fair Park Authority created in Section 11-68-201.

- 1865 (11) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District,
1866 created in Section 11-70-201.
- 1867 (12) "Fairpark district boundary" means a line or set of lines that:
1868 (a) defines the geographic boundary of the fairpark district, consisting of the interior
1869 space within each polygon described by the line or set of lines; and
1870 (b) is delineated in the electronic shapefile that is the electronic component of H.B. 562,
1871 Utah Fairpark Area Investment and Restoration District, 2024 General Session.
- 1872 (13) "Fairpark district funds" means money the fairpark district receives from any source,
1873 including money the fairpark district receives under:
1874 (a) Sections 10-1-304 and 11-70-205;
1875 (b) Section 10-1-403;
1876 (c) Section 11-70-203;
1877 (d) Section 11-70-204;
1878 (e) Section 51-9-902;
1879 (f) Section 59-12-103;
1880 (g) Sections 59-12-352 and 59-12-354;
1881 (h) Section 59-12-401;
1882 (i) Section 59-12-402.5;
1883 (j) Section 59-12-402; and
1884 (k) Section 59-12-1201.
- 1885 (14) "Fair park land" means the same as that term is defined in Section 11-68-101.
- 1886 (15) "Franchise agreement" means a legally binding and valid agreement under which:
1887 (a) a franchise is confirmed for a major league sports team that before January 1, 2024,
1888 had not been located in the state; and
1889 (b) the major league sports team agrees to play home games in a stadium to be
1890 constructed within the fairpark district boundary.
- 1891 (16) "Franchise agreement date" means the date that a franchise agreement is fully executed
1892 and in effect.
- 1893 (17) "Host municipality" means the municipality whose boundary includes the land within
1894 the fairpark district boundary.
- 1895 (18)(a) "Major league sports team" means a team:
1896 (i) consisting of professional athletes;
1897 (ii) that is part of a professional sports league; and
1898 (iii) that is engaged in the business of presenting live sporting events before primarily

- 1899 a paying audience.
- 1900 (b) "Major league sports team" does not include a team organized and operated by an
- 1901 institution of higher education [~~as described~~] listed in Section [~~53B-2-101~~] 53H-1-102.
- 1902 (19) "Other state land" means:
- 1903 (a) land within the fairpark district boundary, other than fair park land, that is owned by
- 1904 the state on January 1, 2024; and
- 1905 (b) except for land acquired under Subsection 11-70-502(3)(a)(ii), land within the
- 1906 fairpark district boundary that is acquired by the fairpark district or the state on or
- 1907 after May 1, 2024.
- 1908 (20) "Payment period" means a period of up to 35 years, as specified in a designation
- 1909 resolution, beginning on the transition date, during which enhanced property tax revenue
- 1910 under Section 11-70-401 is to be paid.
- 1911 (21) "Post-designation parcel" means a parcel within a project area after the transition date
- 1912 for that parcel.
- 1913 (22) "Pre-designation parcel" means a parcel within a project area before the transition date
- 1914 for that parcel.
- 1915 (23) "Professional sports league" means a group of major league sports teams that have
- 1916 formed a league for the major league sports teams to compete against one another.
- 1917 (24) "Project area" means land described in a project area plan or draft project area plan,
- 1918 where the development project set forth in the project area plan or draft project area plan
- 1919 takes place or is proposed to take place.
- 1920 (25) "Project area budget" means a multiyear projection of annual or cumulative revenues
- 1921 and expenses and other fiscal matters pertaining to the project area.
- 1922 (26) "Project area plan" means a written plan that, after the plan's effective date, guides and
- 1923 controls the development within a project area.
- 1924 (27) "Property tax" includes each levy on an ad valorem basis on tangible or intangible
- 1925 personal or real property.
- 1926 (28) "Public entity" means:
- 1927 (a) the state, including each department, division, or other agency of the state; or
- 1928 (b) a county, city, town, school district, special district, special service district, interlocal
- 1929 cooperation entity, community reinvestment agency, or other political subdivision of
- 1930 the state, including the fairpark district.
- 1931 (29)(a) "Public infrastructure and improvements" means infrastructure, improvements,
- 1932 facilities, or buildings that:

- 1933 (i)(A) benefit the public and are owned by a public entity or a utility; or
 1934 (B) benefit the public and are publicly maintained or operated by a public entity; or
 1935 (ii)(A) are privately owned;
 1936 (B) benefit the public;
 1937 (C) as determined by the board, provide a substantial benefit to the development
 1938 and operation of a project area; and
 1939 (D) are built according to applicable design and safety standards.
- 1940 (b) "Public infrastructure and improvements" includes:
 1941 (i) facilities, lines, or systems that provide:
 1942 (A) water, chilled water, or steam; or
 1943 (B) sewer, storm drainage, natural gas, electricity, energy storage, renewable
 1944 energy, microgrids, or telecommunications service;
 1945 (ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking
 1946 facilities, rail lines, intermodal facilities, multimodal facilities, and public
 1947 transportation facilities;
 1948 (iii) a qualified stadium;
 1949 (iv) public trails and pathways associated with and rehabilitation of and
 1950 improvements to the Jordan River;
 1951 (v) agricultural and related exhibit facilities on fair park land; and
 1952 (vi) hotels, hospitality facilities, eating establishments, convention facilities, and
 1953 other related facilities.
- 1954 (30) "Qualified owner" means an owner of at least 65 contiguous acres of privately owned
 1955 land within the fairpark district boundary, or the owner's affiliate.
- 1956 (31)(a) "Qualified stadium" means a stadium:
 1957 (i) within the fairpark district boundary;
 1958 (ii) with a minimum capacity of 30,000 spectators; and
 1959 (iii) that will primarily be used as the home of a major league sports team.
- 1960 (b) "Qualified stadium" includes parking structures or facilities, lighting facilities,
 1961 plazas, and open space associated with a stadium described in Subsection (31)(a).
- 1962 (32) "Shapefile" means the digital vector storage format for storing geometric location and
 1963 associated attribute information.
- 1964 (33) "Stadium contribution" means the principal amount of bonds that the district issues to
 1965 pay for the development and construction of a qualified stadium, plus any other amount
 1966 the district pays toward the development and construction of a qualified stadium.

- 1967 (34) "State fair purposes" means the purposes for the use of fair park land related to the fair
1968 park authority's management, supervision, and control over a state fair and related events
1969 and activities.
- 1970 (35) "State-owned land" means:
1971 (a) fair park land; and
1972 (b) other state land.
- 1973 (36) "Taxable value" means the value of property as shown on the last equalized assessment
1974 roll.
- 1975 (37) "Taxing entity" means the same as that term is defined in Section 59-2-102, excluding
1976 a public infrastructure district that the fairpark district creates under Title 17D, Chapter 4,
1977 Public Infrastructure District Act.
- 1978 (38) "Transition date" means the date indicated in a designation resolution after which the
1979 parcel that is the subject of the designation resolution becomes a post-designation parcel.
- 1980 Section 19. Section **13-1-15** is amended to read:
- 1981 **13-1-15 (Effective upon governor's approval). Exemptions from licensure.**
- 1982 (1) As used in this section, "DOD civilian" means the same as that term is defined in
1983 Section ~~[53B-8-102]~~ 53H-11-202.
- 1984 (2) Except as otherwise provided by statute or rule, the following individuals may engage in
1985 the practice of an occupation or profession regulated by this title, subject to the stated
1986 circumstances and limitations, without being licensed under this title:
- 1987 (a) an individual licensed under the laws of this state, other than under this title, to
1988 practice or engage in an occupation or profession, while engaged in the lawful,
1989 professional, and competent practice of that occupation or profession;
- 1990 (b) an individual serving in the armed forces of the United States, the United States
1991 Public Health Service, the United States Department of Veterans Affairs, or any other
1992 federal agency while engaged in activities regulated under this title as a part of
1993 employment with that federal agency if the individual holds a valid license to practice
1994 the regulated occupation or profession issued by any other state or jurisdiction
1995 recognized by the department; and
- 1996 (c) the spouse of an individual serving in the armed forces of the United States or the
1997 spouse of a DOD civilian while the individual or DOD civilian is stationed within
1998 this state, if:
- 1999 (i) the spouse holds a valid license to practice the regulated occupation or profession
2000 issued by any other state or jurisdiction recognized by the department; and

- (ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 20. Section **13-34-101** is amended to read:

13-34-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

- (1) "Accredited postsecondary school" means a postsecondary school that is accredited by an accrediting agency.
- (2) "Accrediting agency" means a private educational association that:
 - (a) is recognized by the United States Department of Education;
 - (b) develops education criteria; and
 - (c) conducts evaluations to assess whether a postsecondary school meets the criteria described in Subsection (2)(b).
- (3) "Agent" means a person who:
 - (a) owns an interest in a postsecondary school;
 - (b) is employed by a postsecondary school;
 - (c) enrolls or attempts to enroll a Utah resident in a postsecondary school;
 - (d) offers to award an educational credential on behalf of a postsecondary school; or
 - (e) holds oneself out to a Utah resident as representing a postsecondary school for any purpose.
- (4) "Apprentice" means the same as that term is defined in Section 35A-6-102.
- (5) "Apprenticeship" means the same as that term is defined in Section 35A-6-102.
- (6) "Distance postsecondary education" means the same as that term is defined in 20 U.S.C. Sec. 1003(7).
- (7) "Division" means the Division of Consumer Protection.
- (8) "Educational credential" means a degree, diploma, certificate, transcript, report, document, letter of designation, mark, or series of letters, numbers, or words that represent enrollment, attendance, or satisfactory completion of the requirements or prerequisites of an educational program.
- (9) "Longstanding nonprofit accredited postsecondary school" means an accredited postsecondary school that:
 - (a) is a nonprofit organization; and
 - (b) has operated continuously as a nonprofit for at least 20 years.
- (10) "Nonprofit organization" means a nonprofit corporation or foreign nonprofit corporation as those terms are defined in Section 16-6a-102.

- 2035 (11) "Operate" means to:
- 2036 (a) maintain a physical presence in the state; or
- 2037 (b) provide postsecondary education to an individual who resides in the state.
- 2038 (12) "Physical presence" means:
- 2039 (a) to maintain in the state a physical location where a student receives postsecondary
- 2040 education; or
- 2041 (b) to provide to a student distance postsecondary education from a location in this state.
- 2042 (13)(a) "Postsecondary education" means education or educational services offered
- 2043 primarily to an individual who:
- 2044 (i) has completed or terminated their secondary or high school education; or
- 2045 (ii) is beyond the age of compulsory school attendance.
- 2046 (b) "Postsecondary education" does not include instruction at or below the 12th grade
- 2047 level.
- 2048 (14) "Postsecondary school" means a person that offers postsecondary education:
- 2049 (a) in exchange for payment of tuition, fees, or other consideration; and
- 2050 (b) for the purpose of attaining educational, professional, or vocational objectives.
- 2051 (15) "Principal" means a postsecondary school's owner, officer, director, trustee, or
- 2052 administrator.
- 2053 (16) "Public postsecondary school" means a postsecondary school that is:
- 2054 (a)(i) an institution listed in Section ~~[53B-1-102]~~ 53H-1-102; or
- 2055 (ii) established by another state or other governmental entity; and
- 2056 (b) substantially supported with government funds.
- 2057 (17) "Reciprocity agreement" means an agreement the division enters into with another
- 2058 state in accordance with Section 13-34-303.
- 2059 (18)(a) "Registration certificate" means approval from the division to operate a
- 2060 postsecondary school in accordance with this chapter, and with rules adopted in
- 2061 accordance with this chapter.
- 2062 (b) "Registration certificate" does not mean an approval or endorsement of the
- 2063 postsecondary school by the division or the state.
- 2064 (19) "Registration statement" means an application and accompanying documentation
- 2065 required under this chapter for:
- 2066 (a) a registration certificate; or
- 2067 (b) a state authorization certificate.
- 2068 (20)(a) "State authorization certificate" means a certificate that the division issues to an

2069 accredited postsecondary school in accordance with Section 13-34-302.

2070 (b) "State authorization certificate" does not mean an approval or endorsement of the
2071 accredited postsecondary school by the division or the state.

2072 (21) "Student" means:

2073 (a) a person who pays or is obligated to pay a postsecondary school for postsecondary
2074 education; or

2075 (b) a legal guardian of a person described in Subsection (21)(a).

2076 Section 21. Section **13-34-303** is amended to read:

2077 **13-34-303 (Effective upon governor's approval). Authority to execute interstate**
2078 **reciprocity agreement.**

2079 (1) As used in this section, "institution of higher education" means ~~[an institution listed in~~
2080 ~~Section 53B-1-102]~~ the same as that term is defined in Section 53H-1-101.

2081 (2) The division may execute an interstate reciprocity agreement that is:

2082 (a) for purposes of state authorization in accordance with 34 C.F.R. Sec. 600.9; and

2083 (b) for the benefit of:

2084 (i) postsecondary schools in the state; or

2085 (ii)(A) postsecondary schools in the state; and

2086 (B) institutions of higher education.

2087 (3) If the division executes an interstate reciprocity agreement described in Subsection (2)
2088 that includes institutions of higher education, the Utah Board of Higher Education may
2089 make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2090 Act, that:

2091 (a) implement the reciprocity agreement; and

2092 (b) relate to institutions of higher education.

2093 Section 22. Section **16-6a-102** is amended to read:

2094 **16-6a-102 (Effective upon governor's approval). Definitions.**

2095 As used in this chapter:

2096 (1)(a) "Address" means a location where mail can be delivered by the United States
2097 Postal Service.

2098 (b) "Address" includes:

2099 (i) a post office box number;

2100 (ii) a rural free delivery route number; and

2101 (iii) a street name and number.

2102 (2) "Affiliate" means a person that directly or indirectly through one or more intermediaries

- 2103 controls, or is controlled by, or is under common control with, the person specified.
- 2104 (3) "Articles of incorporation" include:
- 2105 (a) amended articles of incorporation;
- 2106 (b) restated articles of incorporation;
- 2107 (c) articles of merger; and
- 2108 (d) a document of a similar import to the documents described in Subsections (3)(a)
- 2109 through (c).
- 2110 (4) "Assumed corporate name" means a name assumed for use in this state:
- 2111 (a) by a:
- 2112 (i) foreign corporation as described in Section 16-10a-1506; or
- 2113 (ii) a foreign nonprofit corporation as described in Section 16-6a-1506; and
- 2114 (b) because the corporate name of the foreign corporation described in Subsection (4)(a)
- 2115 is not available for use in this state.
- 2116 (5)(a) Except as provided in Subsection (5)(b), "board of directors" means the body
- 2117 authorized to manage the affairs of a domestic or foreign nonprofit corporation.
- 2118 (b) Notwithstanding Subsection (5)(a), a person may not be considered a member of the
- 2119 board of directors because of a power delegated to that person under Subsection
- 2120 16-6a-801(2).
- 2121 (6)(a) "Bylaws" means the one or more codes of rules, other than the articles of
- 2122 incorporation, adopted under this chapter for the regulation or management of the
- 2123 affairs of a domestic or foreign nonprofit corporation irrespective of the one or more
- 2124 names by which the codes of rules are designated.
- 2125 (b) "Bylaws" includes:
- 2126 (i) amended bylaws; and
- 2127 (ii) restated bylaws.
- 2128 (7)(a) "Cash" or "money" means:
- 2129 (i) legal tender;
- 2130 (ii) a negotiable instrument; or
- 2131 (iii) other cash equivalent readily convertible into legal tender.
- 2132 (b) "Cash" and "money" are used interchangeably in this chapter.
- 2133 (8) "Charitable organization" means the same as that term is defined in Section 13-22-2.
- 2134 (9)(a) "Class" means a group of memberships that has the same right with respect to
- 2135 voting, dissolution, redemption, transfer, or other characteristics.
- 2136 (b) For purposes of Subsection (9)(a), a right is considered the same if it is determined

- 2137 by a formula applied uniformly to a group of memberships.
- 2138 (10)(a) "Conspicuous" means so written that a reasonable person against whom the
- 2139 writing is to operate should have noticed the writing.
- 2140 (b) "Conspicuous" includes printing or typing in:
- 2141 (i) italics;
- 2142 (ii) boldface;
- 2143 (iii) contrasting color;
- 2144 (iv) capitals; or
- 2145 (v) underlining.
- 2146 (11) "Control" or a "controlling interest" means the direct or indirect possession of the
- 2147 power to direct or cause the direction of the management and policies of an entity by:
- 2148 (a) the ownership of voting shares;
- 2149 (b) contract; or
- 2150 (c) a means other than those specified in Subsection (11)(a) or (b).
- 2151 (12) Subject to Section 16-6a-207, "cooperative nonprofit corporation" or "cooperative"
- 2152 means a nonprofit corporation organized or existing under this chapter.
- 2153 (13) "Corporate name" means:
- 2154 (a) the name of a domestic corporation as stated in the domestic corporation's articles of
- 2155 incorporation;
- 2156 (b) the name of a domestic nonprofit corporation as stated in the domestic nonprofit
- 2157 corporation's articles of incorporation;
- 2158 (c) the name of a foreign corporation as stated in the foreign corporation's:
- 2159 (i) articles of incorporation; or
- 2160 (ii) document of similar import to articles of incorporation; or
- 2161 (d) the name of a foreign nonprofit corporation as stated in the foreign nonprofit
- 2162 corporation's:
- 2163 (i) articles of incorporation; or
- 2164 (ii) document of similar import to articles of incorporation.
- 2165 (14)(a) "Corporate records" means the records described in Section 16-6a-1601.
- 2166 (b) "Corporate records" does not include correspondence, communications, notes, or
- 2167 other similar information, regardless of format or method of storage, that are not an
- 2168 official decision, published document, or record of the corporation.
- 2169 (15) "Corporation" or "domestic corporation" means a corporation for profit that:
- 2170 (a) is not a foreign corporation; and

- 2171 (b) is incorporated under or subject to Chapter 10a, Utah Revised Business Corporation
2172 Act.
- 2173 (16) "Delegate" means a person elected or appointed to vote in a representative assembly:
2174 (a) for the election of a director; or
2175 (b) on matters other than the election of a director.
- 2176 (17) "Deliver" includes delivery by mail or another means of transmission authorized by
2177 Section 16-6a-103, except that delivery to the division means actual receipt by the
2178 division.
- 2179 (18) "Director" means a member of the board of directors.
- 2180 (19)(a) "Distribution" means the payment of a dividend or any part of the income or
2181 profit of a nonprofit corporation to the nonprofit corporation's:
2182 (i) members;
2183 (ii) directors; or
2184 (iii) officers.
- 2185 (b) "Distribution" does not include a fair-value payment for:
2186 (i) a good sold; or
2187 (ii) a service received.
- 2188 (20) "Division" means the Division of Corporations and Commercial Code.
- 2189 (21) "Effective date," when referring to a document filed by the division, means the time
2190 and date determined in accordance with Section 16-6a-108.
- 2191 (22) "Effective date of notice" means the date notice is effective as provided in Section
2192 16-6a-103.
- 2193 (23) "Electronic transmission" or "electronically transmitted" means a process of
2194 communication not directly involving the physical transfer of paper that is suitable for
2195 the receipt, retention, retrieval, and reproduction of information by the recipient,
2196 whether by email, texting, facsimile, or otherwise.
- 2197 (24)(a) "Employee" includes an officer of a nonprofit corporation.
2198 (b)(i) Except as provided in Subsection (24)(b)(ii), "employee" does not include a
2199 director of a nonprofit corporation.
2200 (ii) Notwithstanding Subsection (24)(b)(i), a director may accept one or more duties
2201 that make that director an employee of a nonprofit corporation.
- 2202 (25) "Entity" includes:
2203 (a) a domestic or foreign corporation;
2204 (b) a domestic or foreign nonprofit corporation;

- 2205 (c) a limited liability company;
- 2206 (d) a profit or nonprofit unincorporated association;
- 2207 (e) a business trust;
- 2208 (f) an estate;
- 2209 (g) a partnership;
- 2210 (h) a trust;
- 2211 (i) two or more persons having a joint or common economic interest;
- 2212 (j) a state;
- 2213 (k) the United States; or
- 2214 (l) a foreign government.
- 2215 (26) "Executive director" means the executive director of the Department of Commerce.
- 2216 (27) "Foreign corporation" means a corporation for profit incorporated under a law other
- 2217 than the laws of this state.
- 2218 (28) "Foreign nonprofit corporation" means an entity:
- 2219 (a) incorporated under a law other than the laws of this state; and
- 2220 (b) that would be a nonprofit corporation if formed under the laws of this state.
- 2221 (29) "Governmental entity" means:
- 2222 (a)(i) the executive branch of the state;
- 2223 (ii) the judicial branch of the state;
- 2224 (iii) the legislative branch of the state;
- 2225 (iv) an independent entity, as defined in Section 63E-1-102;
- 2226 (v) a political subdivision of the state;
- 2227 (vi) [~~a state~~] an institution of higher education, as defined in Section [~~53B-3-102~~]
- 2228 53H-1-101;
- 2229 (vii) an entity within the state system of public education; or
- 2230 (viii) the National Guard; or
- 2231 (b) any of the following that is established or controlled by a governmental entity listed
- 2232 in Subsection (29)(a) to carry out the public's business:
- 2233 (i) an office;
- 2234 (ii) a division;
- 2235 (iii) an agency;
- 2236 (iv) a board;
- 2237 (v) a bureau;
- 2238 (vi) a committee;

- 2239 (vii) a department;
- 2240 (viii) an advisory board;
- 2241 (ix) an administrative unit; or
- 2242 (x) a commission.
- 2243 (30) "Governmental subdivision" means:
- 2244 (a) a county;
- 2245 (b) a city;
- 2246 (c) a town; or
- 2247 (d) another type of governmental subdivision authorized by the laws of this state.
- 2248 (31) "Individual" means:
- 2249 (a) a natural person;
- 2250 (b) the estate of an incompetent individual; or
- 2251 (c) the estate of a deceased individual.
- 2252 (32) "Internal Revenue Code" means the federal "Internal Revenue Code of 1986," as
- 2253 amended from time to time, or to corresponding provisions of subsequent internal
- 2254 revenue laws of the United States of America.
- 2255 (33)(a) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing in the
- 2256 United States mail, properly addressed, first-class postage prepaid.
- 2257 (b) "Mail," "mailed," or "mailing" includes registered or certified mail for which the
- 2258 proper fee is paid.
- 2259 (34)(a) "Member" means one or more persons identified or otherwise appointed as a
- 2260 member of a domestic or foreign nonprofit corporation as provided:
- 2261 (i) in the articles of incorporation;
- 2262 (ii) in the bylaws;
- 2263 (iii) by a resolution of the board of directors; or
- 2264 (iv) by a resolution of the members of the nonprofit corporation.
- 2265 (b) "Member" includes:
- 2266 (i) "voting member"; and
- 2267 (ii) a shareholder in a water company.
- 2268 (35) "Membership" refers to the rights and obligations of a member or members.
- 2269 (36) "Mutual benefit corporation" means a nonprofit corporation:
- 2270 (a) that issues shares of stock to its members evidencing a right to receive distribution of
- 2271 water or otherwise representing property rights; or
- 2272 (b) all of whose assets are contributed or acquired by or for the members of the nonprofit

2273 corporation or the members' predecessors in interest to serve the mutual purposes of
2274 the members.

2275 (37) "Nonprofit corporation" or "domestic nonprofit corporation" means an entity that:

2276 (a) is not a foreign nonprofit corporation; and

2277 (b) is incorporated under or subject to this chapter.

2278 (38) "Notice" means the same as that term is defined in Section 16-6a-103.

2279 (39) "Party related to a director" means:

2280 (a) the spouse of the director;

2281 (b) a child of the director;

2282 (c) a grandchild of the director;

2283 (d) a sibling of the director;

2284 (e) a parent of the director;

2285 (f) the spouse of an individual described in Subsections (39)(b) through (e);

2286 (g) an individual having the same home as the director;

2287 (h) a trust or estate of which the director or another individual specified in this

2288 Subsection (39) is a substantial beneficiary; or

2289 (i) any of the following of which the director is a fiduciary:

2290 (i) a trust;

2291 (ii) an estate;

2292 (iii) an incompetent;

2293 (iv) a conservatee; or

2294 (v) a minor.

2295 (40) "Person" means an:

2296 (a) individual; or

2297 (b) entity.

2298 (41) "Principal office" means:

2299 (a) the office, in or out of this state, designated by a domestic or foreign nonprofit
2300 corporation as its principal office in the most recent document on file with the
2301 division providing that information, including:

2302 (i) an annual report;

2303 (ii) an application for a certificate of authority; or

2304 (iii) a notice of change of principal office; or

2305 (b) if no principal office can be determined, a domestic or foreign nonprofit
2306 corporation's registered office.

- 2307 (42) "Proceeding" includes:
- 2308 (a) a civil suit;
- 2309 (b) arbitration;
- 2310 (c) mediation;
- 2311 (d) a criminal action;
- 2312 (e) an administrative action; or
- 2313 (f) an investigatory action.
- 2314 (43) "Receive," when used in reference to receipt of a writing or other document by a
- 2315 domestic or foreign nonprofit corporation, means the writing or other document is
- 2316 actually received:
- 2317 (a) by the domestic or foreign nonprofit corporation at:
- 2318 (i) its registered office in this state; or
- 2319 (ii) its principal office;
- 2320 (b) by the secretary of the domestic or foreign nonprofit corporation, wherever the
- 2321 secretary is found; or
- 2322 (c) by another person authorized by the bylaws or the board of directors to receive the
- 2323 writing or other document, wherever that person is found.
- 2324 (44)(a) "Record date" means the date established under Part 6, Members, or Part 7,
- 2325 Member Meetings and Voting, on which a nonprofit corporation determines the
- 2326 identity of the nonprofit corporation's members.
- 2327 (b) The determination described in Subsection (44)(a) shall be made as of the close of
- 2328 business on the record date unless another time for doing so is specified when the
- 2329 record date is fixed.
- 2330 (45) "Registered agent" means the registered agent of:
- 2331 (a) a domestic nonprofit corporation; or
- 2332 (b) a foreign nonprofit corporation.
- 2333 (46) "Registered office" means the office within this state designated by a domestic or
- 2334 foreign nonprofit corporation as its registered office in the most recent document on file
- 2335 with the division providing that information, including:
- 2336 (a) articles of incorporation;
- 2337 (b) an application for a certificate of authority; or
- 2338 (c) a notice of change of registered office.
- 2339 (47) "Secretary" means the corporate officer to whom the bylaws or the board of directors
- 2340 delegates responsibility under Subsection 16-6a-818(3) for:

- 2341 (a) the preparation and maintenance of:
- 2342 (i) minutes of the meetings of:
- 2343 (A) the board of directors; or
- 2344 (B) the members; and
- 2345 (ii) the other records and information required to be kept by the nonprofit corporation
- 2346 as described in Section 16-6a-1601; and
- 2347 (b) authenticating records of the nonprofit corporation.
- 2348 (48) "Share" means a unit of interest in a nonprofit corporation.
- 2349 (49) "Shareholder" means a person in whose name a share is registered in the records of a
- 2350 nonprofit corporation.
- 2351 (50) "State," when referring to a part of the United States, includes:
- 2352 (a) a state;
- 2353 (b) a commonwealth;
- 2354 (c) the District of Columbia;
- 2355 (d) an agency or governmental and political subdivision of a state, commonwealth, or
- 2356 District of Columbia;
- 2357 (e) territory or insular possession of the United States; or
- 2358 (f) an agency or governmental and political subdivision of a territory or insular
- 2359 possession of the United States.
- 2360 (51) "Street address" means:
- 2361 (a)(i) street name and number;
- 2362 (ii) city or town; and
- 2363 (iii) United States post office zip code designation; or
- 2364 (b) if, by reason of rural location or otherwise, a street name, number, city, or town does
- 2365 not exist, an appropriate description other than that described in Subsection (51)(a)
- 2366 fixing as nearly as possible the actual physical location, but only if the information
- 2367 includes:
- 2368 (i) the rural free delivery route;
- 2369 (ii) the county; and
- 2370 (iii) the United States post office zip code designation.
- 2371 (52) "Tribal nonprofit corporation" means a nonprofit corporation:
- 2372 (a) incorporated under the law of a tribe; and
- 2373 (b) that is at least 51% owned or controlled by the tribe.
- 2374 (53) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of

2375 Indians, including an Alaska Native village, that is legally recognized as eligible for and
2376 is consistent with a special program, service, or entitlement provided by the United
2377 States to Indians because of the tribe's status as Indians.

2378 (54) "United States" includes a district, authority, office, bureau, commission, department,
2379 and another agency of the United States of America.

2380 (55) "Vote" includes authorization by:

2381 (a) written ballot; and

2382 (b) written consent.

2383 (56)(a) "Voting group" means all the members of one or more classes of members or
2384 directors that, under this chapter, the articles of incorporation, or the bylaws, are
2385 entitled to vote and be counted together collectively on a matter.

2386 (b) All members or directors entitled by this chapter, the articles of incorporation, or the
2387 bylaws to vote generally on a matter are for that purpose a single voting group.

2388 (57)(a) "Voting member" means a person entitled to vote for all matters required or
2389 permitted under this chapter to be submitted to a vote of the members, except as
2390 otherwise provided in the articles of incorporation or bylaws.

2391 (b) A person is not a voting member solely because of:

2392 (i) a right the person has as a delegate;

2393 (ii) a right the person has to designate a director; or

2394 (iii) a right the person has as a director.

2395 (c) Except as the bylaws may otherwise provide, "voting member" includes a
2396 "shareholder" if the nonprofit corporation has shareholders.

2397 (58) "Water company" means:

2398 (a) the same as that term is defined in Subsection 16-4-102(5); or

2399 (b) a mutual benefit corporation, when the stock in the mutual benefit corporation
2400 represents a right to receive a distribution of water for beneficial use.

2401 Section 23. Section **17-27a-1102** is amended to read:

2402 **17-27a-1102 (Effective upon governor's approval). Definitions.**

2403 (1) "Animal feeding operation" means a lot or facility where the following conditions are
2404 met:

2405 (a) animals have been, are, or will be stabled or confined and fed or maintained for a
2406 total of 45 days or more in any 12-month period; and

2407 (b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the
2408 normal growing season over any portion of the lot or facility.

- 2409 (2)(a) "Commercial enterprise" means a building:
- 2410 (i) used as a part of a business that manufactures goods, delivers services, or sells
- 2411 goods or services;
- 2412 (ii) customarily and regularly used by the general public during the entire calendar
- 2413 year; and
- 2414 (iii) connected to electric or water systems.
- 2415 (b) "Commercial enterprise" does not include an agriculture operation.
- 2416 (3) "County large concentrated animal feeding operation land use ordinance" means an
- 2417 ordinance adopted in accordance with Section 17-27a-1103.
- 2418 (4) "Education institution" means a building in which any part is used:
- 2419 (a) for more than three hours each weekday during a school year as a public or private:
- 2420 (i) elementary school;
- 2421 (ii) secondary school; or
- 2422 (iii) kindergarten;
- 2423 (b) ~~[a state-]~~ by an institution of higher education as defined in Section ~~[53B-3-102]~~
- 2424 53H-1-101; or
- 2425 (c) by a private institution of higher education in the state accredited by a regional or
- 2426 national accrediting agency recognized by the United States Department of Education.
- 2427 (5) "Health care facility" means the same as that term is defined in Section 26B-2-201.
- 2428 (6) "Large concentrated animal feeding operation" means an animal feeding operation that
- 2429 stables or confines as many as or more than the numbers of animals specified in any of
- 2430 the following categories:
- 2431 (a) 700 mature dairy cows, whether milked or dry;
- 2432 (b) 1,000 veal calves;
- 2433 (c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including
- 2434 heifers, steers, bulls, and cow calf pairs;
- 2435 (d) 2,500 swine each weighing 55 pounds or more;
- 2436 (e) 10,000 swine each weighing less than 55 pounds;
- 2437 (f) 500 horses;
- 2438 (g) 10,000 sheep or lambs;
- 2439 (h) 55,000 turkeys;
- 2440 (i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure
- 2441 handling system;
- 2442 (j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other

- 2443 than a liquid manure handling system;
- 2444 (k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure
- 2445 handling system;
- 2446 (l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure
- 2447 handling system; or
- 2448 (m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.
- 2449 (7) "Manure" includes manure, bedding, compost, a raw material, or other material
- 2450 commingled with manure or set aside for disposal.
- 2451 (8) "Public area" means land that:
- 2452 (a) is owned by the federal government, the state, or a political subdivision with
- 2453 facilities that attract the public to congregate and remain in the area for significant
- 2454 periods of time;
- 2455 (b)(i) is part of a public park, preserve, or recreation area that is owned or managed
- 2456 by the federal government, the state, a political subdivision, or a nongovernmental
- 2457 entity; and
- 2458 (ii) has a cultural, archaeological, scientific, or historic significance or contains a rare
- 2459 or valuable ecological system, including a site recognized as a National Historic
- 2460 Landmark or Site; or
- 2461 (c) is a cemetery.
- 2462 (9) "Religious institution" means a building and grounds used at least monthly for religious
- 2463 services or ceremonies.

2464 Section 24. Section **17-43-102** is amended to read:

2465 **17-43-102 (Effective upon governor's approval). Definitions.**

2466 As used in this chapter:

- 2467 (1) "Department" means the Department of Health and Human Services created in Section
- 2468 26B-1-201.
- 2469 (2) "Division" means the Division of Integrated Healthcare within the department.
- 2470 (3) "First responder" means:
- 2471 (a) a law enforcement officer, as that term is defined in Section 53-13-103;
- 2472 (b) emergency medical service personnel, as that term is defined in Section 53-2d-101;
- 2473 (c) an emergency medical technician, as that term is defined in Section 53-2e-101;
- 2474 (d) an advanced emergency medical technician, as that term is defined in Section
- 2475 53-2e-101;
- 2476 (e) a firefighter, as that term is defined in Section ~~53B-8e-102~~ 53H-11-306;

(f) a dispatcher, as that term is defined in Section 53-6-102; or

(g) a mobile outreach social worker.

Section 25. Section **20A-8-101** is amended to read:

20A-8-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Continuing political party" means an organization of voters that:

(a) participated in the last regular general election; and

(b) in at least one of the last two regular general elections, polled a total vote for any of [its] the political party's candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives in the same regular general election.

(2) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the county political party, are members of the registered political party.

(3) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

~~[(3)]~~ (4) "Legislative office" means the office of state senator or state representative.

~~[(4)]~~ (5) "Newly registered political party" means a statewide organization of voters that has complied with the petition and organizing procedures of this chapter to become a registered political party.

~~[(5) "Public institution of higher education" means the same as that term is defined in Section 53B-16-301.]~~

(6) "Registered political party" means an organization of voters that:

(a)(i) participated in the last regular general election; and

(ii) in at least one of the last two regular general elections, polled a total vote for any of its candidates for any office equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives in the same regular general election; or

(b) has complied with the petition and organizing procedures of this chapter.

(7) "State office" means the office of governor, lieutenant governor, attorney general, state auditor, state treasurer, or state school board member.

(8) "State political party" means, for each registered political party, all of the persons in Utah who, under definitions established by the state political party, are members of the registered political party.

Section 26. Section **20A-8-404** is amended to read:

20A-8-404 (Effective upon governor's approval). Use of public meeting buildings by political parties.

- (1) The legislative body of a county, municipality, school district, or ~~[public]~~ an institution of higher education shall make all meeting facilities in buildings under its control available to registered political parties, without discrimination, to be used for political party activities if:
 - (a) the political party requests the use of the meeting facility no later than 5 p.m. on the last business day that is at least 30 calendar days before the day on which the use by the political party will take place; and
 - (b) the meeting facility is not already scheduled for another purpose at the time of the proposed use.
- (2) Subject to the requirements of Subsection (3), when a legislative body makes a meeting facility available under Subsection (1), it may establish terms and conditions for use of that meeting facility.
- (3) The charge imposed for the use of a meeting facility described in Subsection (1) by a registered political party may not exceed the actual cost of:
 - (a) custodial services for cleaning the meeting facility after the use by the political party; and
 - (b) any service requested by the political party and provided by the meeting facility.
- (4) An entity described in Subsection (1) shall, to the extent possible, avoid scheduling an event in a government building for the same evening as an announced party caucus meeting.
- (5) This section does not apply to a convention center, sports arena, or other facility at which conventions, conferences, or other gatherings are held:
 - (a) that is owned or operated by a public entity other than ~~[a-public]~~ an institution of higher education; and
 - (b) whose primary business or function is to host sporting events, conventions, conferences, or other gatherings.

Section 27. Section **26B-1-242** is amended to read:

26B-1-242 (Effective upon governor's approval). Prohibition on requiring immunity passports or vaccination -- Exceptions.

- (1) As used in this section:
 - (a) "Governmental entity" means the same as that term is defined in Section 63D-2-102.

- (b) "Immunity passport" means a document, digital record, or software application indicating that an individual is immune to a disease, whether through vaccination or infection and recovery.
- (c) "Regulated entity" means an employer, as defined in Section 34A-6-103, that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a vaccine, unless the employer is:
- (i) the state or a political subdivision of the state; and
 - (ii) not a health care facility as defined in Section 26B-2-201.
- (d) "Vaccination status" means an indication of whether an individual has received one or more doses of a vaccine.
- (2) A governmental entity may not:
- (a) refuse, withhold from, or deny to an individual any local or state service, good, facility, advantage, privilege, license, educational opportunity, health care access, or employment opportunity based on the individual's vaccination status, including whether the individual has an immunity passport; or
 - (b) require any individual, directly or indirectly, to receive a vaccine.
- (3) Subsection (2) does not apply to:
- (a) a vaccination requirement by an institution of higher education, if the vaccination requirement is implemented in accordance with Section [53B-2-113] 53H-3-1302;
 - (b) a vaccination requirement by a school if the vaccination requirement is implemented in accordance with Title 53G, Chapter 9, Part 3, Immunization Requirements;
 - (c) a child care program as defined in Section 26B-2-401 if the vaccination requirement is implemented in accordance with applicable provisions of state and federal law;
 - (d) a regulated entity if compliance with Subsection (2) would result in a violation of binding, mandatory regulations or requirements that affect the regulated entity's funding issued by the Centers for Medicare and Medicaid Services or the United States Centers for Disease Control and Prevention;
 - (e) a contract for goods or services entered into before May 3, 2023, if:
 - (i) application of this section would result in a substantial impairment of the contract; and
 - (ii) the contract is not between an employer and the employer's employee;
 - (f) a federal contractor;
 - (g) a governmental entity vaccination requirement of an employee who, as determined by the governmental entity:

- 2579 (i) has, as part of the employee's duties, direct exposure to human blood, human fecal
2580 matter, or other potentially infectious materials that may expose the employee to
2581 hepatitis or tuberculosis; or
- 2582 (ii) is acting in a public health or medical setting that requires the employee to
2583 receive vaccinations to perform the employee's assigned duties and
2584 responsibilities; or
- 2585 (h) a governmental entity that:
- 2586 (i) establishes a nexus between a vaccination requirement and the employee's
2587 assigned duties and responsibilities; or
- 2588 (ii) identifies an external requirement for vaccination that is not imposed by the
2589 governmental entity and is related to the employee's duties and responsibilities.
- 2590 (4) Nothing in this section prohibits a governmental entity from recommending that an
2591 employee receive a vaccine.
- 2592 Section 28. Section **26B-1-310** is amended to read:
- 2593 **26B-1-310 (Effective upon governor's approval). Qualified Patient Enterprise**
2594 **Fund -- Creation -- Revenue neutrality -- Uniform fee.**
- 2595 (1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."
- 2596 (2) The fund created in this section is funded from:
- 2597 (a) money the department deposits into the fund under Chapter 4, Part 2, Cannabinoid
2598 Research and Medical Cannabis;
- 2599 (b) appropriations the Legislature makes to the fund; and
- 2600 (c) the interest described in Subsection (3).
- 2601 (3) Interest earned on the fund shall be deposited into the fund.
- 2602 (4) Money deposited into the fund may only be used by:
- 2603 (a) the department to accomplish the department's responsibilities described in Chapter
2604 4, Part 2, Cannabinoid Research and Medical Cannabis;
- 2605 (b) the Center for Medical Cannabis Research created in [~~Section 53B-17-1402~~] Section
2606 53H-4-206 to accomplish the Center for Medical Cannabis Research's
2607 responsibilities; and
- 2608 (c) the Department of Agriculture and Food for the one time purchase of equipment to
2609 meet the requirements described in Section 4-41a-204.1.
- 2610 (5) The department shall set fees authorized under Chapter 4, Part 2, Cannabinoid Research
2611 and Medical Cannabis, in amounts that the department anticipates are necessary, in total,
2612 to cover the department's cost to implement Chapter 4, Part 2, Cannabinoid Research

and Medical Cannabis.

- (6) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection (5), the department sets in accordance with Section 63J-1-504.

Section 29. Section **26B-1-435** is amended to read:

26B-1-435 (Effective upon governor's approval). Medical Cannabis Policy Advisory Board creation -- Membership -- Duties.

- (1) There is created within the department the Medical Cannabis Policy Advisory Board.

- (2)(a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

(A) a recommending medical provider who has recommended medical cannabis to at least 100 patients before being appointed;

(B) a mental health specialist;

(C) an individual who represents an organization that advocates for medical cannabis patients;

(D) a member of the general public who holds a medical cannabis patient card; and

(E) a member of the general public who does not hold a medical cannabis card;

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility, as defined in Section 4-41a-102;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer; and

(iii) a representative from the Center for Medical Cannabis Research created in Section ~~[53B-14-1402]~~ 53H-4-206, appointed by the Center for Medical Cannabis Research.

- (b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.

- (3)(a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

- (b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that

- 2647 approximately half of the board is appointed every two years.
- 2648 (4)(a) If an advisory board member is no longer able to serve as a member, a new
- 2649 member shall be appointed in the same manner as the original appointment.
- 2650 (b) A member appointed in accordance with Subsection (4)(a) shall serve for the
- 2651 remainder of the unexpired term of the original appointment.
- 2652 (5)(a) A majority of the advisory board members constitutes a quorum.
- 2653 (b) The action of a majority of a quorum constitutes an action of the advisory board.
- 2654 (c) For a term lasting one year, the advisory board shall annually designate members of
- 2655 the advisory board to serve as chair and vice-chair.
- 2656 (d) When designating the chair and vice-chair, the advisory board shall ensure that at
- 2657 least one individual described Subsection (2)(a)(i) is appointed as chair or vice-chair.
- 2658 (6) An advisory board member may not receive compensation or benefits for the member's
- 2659 service on the advisory board but may receive per diem and reimbursement for travel
- 2660 expenses incurred as an advisory board member in accordance with:
- 2661 (a) Sections 63A-3-106 and 63A-3-107; and
- 2662 (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 2663 63A-3-107.
- 2664 (7) The department shall:
- 2665 (a) provide staff support for the advisory board; and
- 2666 (b) assist the advisory board in conducting meetings.
- 2667 (8) The advisory board may recommend:
- 2668 (a) to the department or the Department of Agriculture and Food changes to current or
- 2669 proposed medical cannabis rules or statutes; and
- 2670 (b) to the appropriate legislative committee whether the advisory board supports a
- 2671 change to medical cannabis statutes.
- 2672 (9) The advisory board shall:
- 2673 (a) review any draft rule that is authorized under Chapter 4, Part 2, Cannabinoid
- 2674 Research and Medical Cannabis, or Title 4, Chapter 41a, Cannabis Production
- 2675 Establishments and Pharmacies;
- 2676 (b) consult with the Department of Agriculture and Food regarding the issuance of an
- 2677 additional:
- 2678 (i) cultivation facility license under Section 4-41a-205; or
- 2679 (ii) pharmacy license under Section 4-41a-1005;
- 2680 (c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the [Utah] Department of Agriculture and Food.

Section 30. Section **26B-3-108** is amended to read:

26B-3-108 (Effective upon governor's approval). Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Optional dental services costs and delivery -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2)(a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26B-8-411 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3)(a) The department shall, in accordance with Subsection (3)(b), report to the Social

2715 Services Appropriations Subcommittee when the department:

- 2716 (i) implements a change in the Medicaid State Plan;
- 2717 (ii) initiates a new Medicaid waiver;
- 2718 (iii) initiates an amendment to an existing Medicaid waiver;
- 2719 (iv) applies for an extension of an application for a waiver or an existing Medicaid
- 2720 waiver;
- 2721 (v) applies for or receives approval for a change in any capitation rate within the
- 2722 Medicaid program; or
- 2723 (vi) initiates a rate change that requires public notice under state or federal law.

2724 (b) The report required by Subsection (3)(a) shall:

- 2725 (i) be submitted to the Social Services Appropriations Subcommittee prior to the
- 2726 department implementing the proposed change; and
- 2727 (ii) include:
 - 2728 (A) a description of the department's current practice or policy that the department
 - 2729 is proposing to change;
 - 2730 (B) an explanation of why the department is proposing the change;
 - 2731 (C) the proposed change in services or reimbursement, including a description of
 - 2732 the effect of the change;
 - 2733 (D) the effect of an increase or decrease in services or benefits on individuals and
 - 2734 families;
 - 2735 (E) the degree to which any proposed cut may result in cost-shifting to more
 - 2736 expensive services in health or human service programs; and
 - 2737 (F) the fiscal impact of the proposed change, including:
 - 2738 (I) the effect of the proposed change on current or future appropriations from
 - 2739 the Legislature to the department;
 - 2740 (II) the effect the proposed change may have on federal matching dollars
 - 2741 received by the state Medicaid program;
 - 2742 (III) any cost shifting or cost savings within the department's budget that may
 - 2743 result from the proposed change; and
 - 2744 (IV) identification of the funds that will be used for the proposed change,
 - 2745 including any transfer of funds within the department's budget.

2746 (4) Any rules adopted by the department under Subsection (2) are subject to review and

2747 reauthorization by the Legislature in accordance with Section 63G-3-502.

2748 (5) The department may, in its discretion, contract with other qualified agencies for services

in connection with the administration of the Medicaid program, including:

- (a) the determination of the eligibility of individuals for the program;
- (b) recovery of overpayments; and
- (c) consistent with Section 26B-3-1113, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

- (a) termination from the program;
- (b) recovery of claim reimbursements incorrectly paid; and
- (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7)(a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited into the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8)(a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Part 9, Utah Children's Health Insurance Program, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a);
or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9)(a) As used in this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

- 2783 (ii) "spend down" means an amount of income in excess of the allowable income
2784 standard that shall be paid in cash to the department or incurred through the
2785 medical services not paid by Medicaid.
- 2786 (b) In determining whether an applicant or recipient who is aged, blind, or has a
2787 disability is eligible for a service or benefit under this chapter, the department shall
2788 use 100% of the federal poverty level as:
- 2789 (i) the allowable income standard for eligibility for services or benefits; and
2790 (ii) the allowable income standard for eligibility as a result of spend down.
- 2791 (10) The department shall conduct internal audits of the Medicaid program.
- 2792 (11)(a)(i) The department shall apply for, and if approved, implement an amendment
2793 to the state plan under this Subsection (11) for benefits for:
- 2794 (A) medically needy pregnant women;
2795 (B) medically needy children; and
2796 (C) medically needy parents and caretaker relatives.
- 2797 (ii) The department may implement the eligibility standards of Subsection (11)(b) for
2798 eligibility determinations made on or after the date of the approval of the
2799 amendment to the state plan.
- 2800 (b) In determining whether an applicant is eligible for benefits described in Subsection
2801 (11)(a)(i), the department shall:
- 2802 (i) disregard resources held in an account in a savings plan created under [~~Title 53B,~~
2803 ~~Chapter 8a, Utah Educational Savings Plan~~] Title 53H, Chapter 10, Utah
2804 Education Savings, if the beneficiary of the account is:
- 2805 (A) under [~~the age of 26~~] 26 years old; and
2806 (B) living with the account owner, as that term is defined in Section [~~53B-8a-102~~]
2807 53H-10-101, or temporarily absent from the residence of the account owner;
2808 and
- 2809 (ii) include withdrawals from an account in the Utah Educational Savings Plan as
2810 resources for a benefit determination, if the withdrawals were not used for
2811 qualified higher education costs as that term is defined in Section [~~53B-8a-102.5~~]
2812 53H-10-201.
- 2813 (12)(a) The department may not deny or terminate eligibility for Medicaid solely
2814 because an individual is:
- 2815 (i) incarcerated; and
2816 (ii) not an inmate as defined in Section 64-13-1.

- 2817 (b) Subsection (12)(a) does not require the Medicaid program to provide coverage for
2818 any services for an individual while the individual is incarcerated.
- 2819 (13) The department is a party to, and may intervene at any time in, any judicial or
2820 administrative action:
- 2821 (a) to which the Department of Workforce Services is a party; and
2822 (b) that involves medical assistance under this chapter.
- 2823 (14)(a) The department may not deny or terminate eligibility for Medicaid solely
2824 because a birth mother, as that term is defined in Section 81-13-101, considers an
2825 adoptive placement for the child or proceeds with an adoptive placement of the child.
- 2826 (b) A health care provider, as that term is defined in Section 26B-3-126, may not decline
2827 payment by Medicaid for covered health and medical services provided to a birth
2828 mother, as that term is defined in Section 81-13-101, who is enrolled in Utah's
2829 Medicaid program and who considers an adoptive placement for the child or
2830 proceeds with an adoptive placement of the child.

2831 Section 31. Section **26B-4-222** is amended to read:

2832 **26B-4-222 (Effective upon governor's approval). Report.**

- 2833 (1) By the November interim meeting each year, the department shall report to the Health
2834 and Human Services Interim Committee on:
- 2835 (a) the number of applications and renewal applications filed for medical cannabis cards;
2836 (b) the number of qualifying patients and designated caregivers;
2837 (c) the nature of the debilitating medical conditions of the qualifying patients;
2838 (d) the age and county of residence of cardholders;
2839 (e) the number of medical cannabis cards revoked;
2840 (f) the number of practitioners providing recommendations for qualifying patients; and
2841 (g) the expenses and revenues of the Qualified Patient Enterprise Fund created in
2842 Section 26B-1-310.
- 2843 (2) The report shall include information provided by the Center for Medical Cannabis
2844 Research described in Section [53B-17-1402] 53H-4-206.
- 2845 (3) The department may not include personally identifying information in the report
2846 described in this section.
- 2847 (4) The department shall report to the working group described in Section 36-12-8.2 as
2848 requested by the working group.

2849 Section 32. Section **26B-4-243** is amended to read:

2850 **26B-4-243 (Effective upon governor's approval). Guidance for treatment with**

medical cannabis.

The department, in consultation with the Center for Medical Cannabis Research created in Section [53B-17-1402] 53H-4-206, shall:

- (1) develop evidence-based guidance for treatment with medical cannabis based on the latest medical research that shall include:
 - (a) for each qualifying condition, a summary of the latest medical research regarding the treatment of the qualifying condition with medical cannabis;
 - (b) risks, contraindications, side effects, and adverse reactions that are associated with medical cannabis use; and
 - (c) potential drug interactions between medical cannabis and medications that have been approved by the United States Food and Drug Administration;
- (2) educate recommending medical providers, pharmacy medical providers, medical cannabis cardholders, and the public regarding:
 - (a) the evidence-based guidance for treatment with medical cannabis described in Subsection (1)(a);
 - (b) relevant warnings and safety information related to medical cannabis use; and
 - (c) other topics related to medical cannabis use as determined by the department;
- (3) develop patient product information inserts for medical cannabis products:
 - (a) in consultation with the cannabis processing facility that created the product; and
 - (b) that do not contain proprietary information about the product.

Section 33. Section **26B-4-512** is amended to read:

26B-4-512 (Effective upon governor's approval). Opiate Overdose Outreach Pilot Program -- Grants -- Annual reporting by grantees -- Rulemaking -- Annual reporting by department.

- (1) As used in this section:
 - (a) "Persons that are in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event":
 - (i) means the following organizations:
 - (A) a law enforcement agency;
 - (B) the department or a local health department, as defined in Section 26A-1-102;
 - (C) an organization that provides drug or alcohol treatment services;
 - (D) an organization that provides services to the homeless;
 - (E) an organization that provides training on the proper administration of an opiate antagonist in response to an opiate-related drug overdose event;

(F) a school; or

(G) except as provided in Subsection (1)(a)(ii), any other organization, as defined by department rule made under Subsection (7)(e), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; and

(ii) does not mean:

(A) a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) a health care facility; or

(C) an individual.

(b) "School" means:

(i) a public school:

(A) for elementary or secondary education, including a charter school; or

(B) for other purposes;

(ii) a private school:

(A) for elementary or secondary education; or

(B) accredited for other purposes, including higher education or specialty training;

or

(iii) an institution [~~within the state system~~] of higher education, [~~as described~~] listed in Section [~~53B-1-102~~] 53H-1-102.

(2) There is created within the department the "Opiate Overdose Outreach Pilot Program."

(3) The department may use funds appropriated for the program to:

(a) provide grants under Subsection (4);

(b) promote public awareness of the signs, symptoms, and risks of opioid misuse and overdose;

(c) increase the availability of educational materials and other resources designed to assist individuals at increased risk of opioid overdose, their families, and others in a position to help prevent or respond to an overdose event;

(d) increase public awareness of, access to, and use of opiate antagonist;

(e) update the department's Utah Clinical Guidelines on Prescribing Opioids and promote its use by prescribers and dispensers of opioids;

(f) develop a directory of substance misuse treatment programs and promote its dissemination to and use by opioid prescribers, dispensers, and others in a position to assist individuals at increased risk of opioid overdose;

(g) coordinate a multi-agency coalition to address opioid misuse and overdose; and

- 2919 (h) maintain department data collection efforts designed to guide the development of
2920 opioid overdose interventions and track their effectiveness.
- 2921 (4) No later than September 1, 2016, and with available funding, the department shall grant
2922 funds through the program to persons that are in a position to assist an individual who is
2923 at increased risk of experiencing an opiate-related drug overdose event.
- 2924 (5) Funds granted by the program:
- 2925 (a) may be used by a grantee to:
- 2926 (i) pay for the purchase by the grantee of an opiate antagonist; or
- 2927 (ii) pay for the grantee's cost of providing training on the proper administration of an
2928 opiate antagonist in response to an opiate-related drug overdose event; and
- 2929 (b) may not be used:
- 2930 (i) to pay for costs associated with the storage or dispensing of an opiate antagonist;
2931 or
- 2932 (ii) for any other purposes.
- 2933 (6) Grantees shall report annually to the department on the use of granted funds in
2934 accordance with department rules made under Subsection (7)(d).
- 2935 (7) No later than July 1, 2016, the department shall, in accordance with Title 63G, Chapter
2936 3, Utah Administrative Rulemaking Act, make rules specifying:
- 2937 (a) how to apply for a grant from the program;
- 2938 (b) the criteria used by the department to determine whether a grant request is approved,
2939 including criteria providing that:
- 2940 (i) grants are awarded to areas of the state, including rural areas, that would benefit
2941 most from the grant; and
- 2942 (ii) no more than 15% of the total amount granted by the program is used to pay for
2943 grantees' costs of providing training on the proper administration of an opiate
2944 antagonist in response to an opiate-related drug overdose event;
- 2945 (c) the criteria used by the department to determine the amount of a grant;
- 2946 (d) the information a grantee shall report annually to the department under Subsection (6),
2947 including:
- 2948 (i) the amount of opiate antagonist purchased and dispensed by the grantee during the
2949 reporting period;
- 2950 (ii) the number of individuals to whom the opiate antagonist was dispensed by the
2951 grantee;
- 2952 (iii) the number of lives known to have been saved during the reporting period as a

2953 result of opiate antagonist dispensed by the grantee; and

2954 (iv) the manner in which the grantee shall record, preserve, and make available for
2955 audit by the department the information described in Subsections (7)(d)(i) through
2956 (7)(d)(iii); and

2957 (e) as required by Subsection (1)(a)(i)(G), any other organization that is in a position to
2958 assist an individual who is at increased risk of experiencing an opiate-related drug
2959 overdose event.

2960 Section 34. Section **26B-4-705** is amended to read:

2961 **26B-4-705 (Effective upon governor's approval). Utah Health Workforce**
2962 **Information Center.**

2963 (1) As used in this section:

2964 (a) "Council" means the Utah Health Workforce Advisory Council created in Section
2965 26B-1-425.

2966 (b) "Health sector" means any place of employment where the primary function is the
2967 delivery of health care services.

2968 (c)(i) "Health workforce" means the individuals, collectively and by profession, who
2969 deliver health care services or assist in the delivery of health care services.

2970 (ii) "Health workforce" includes any health care professional who does not work in
2971 the health sector and any non-health care professional who works in the health
2972 sector.

2973 (2) There is created within the department the Utah Health Workforce Information Center.

2974 (3) The information center shall:

2975 (a) under the guidance of the council, work with the Department of Commerce to collect
2976 data described in Section 58-1-112;

2977 (b) analyze data from any available source regarding Utah's health workforce including
2978 data collected by the Department of Commerce under Section 58-1-112;

2979 (c) send a report to the council regarding any analysis of health workforce data;

2980 (d) conduct research on Utah's health workforce as directed by the council;

2981 (e) notwithstanding the provisions of Subsection 35A-4-312(3), receive information
2982 obtained by the Department of Workforce Services under the provisions of Section
2983 35A-4-312 for purposes consistent with the information center's duties, including
2984 identifying changes in Utah's health workforce numbers, types, and geographic
2985 distribution;

2986 ~~[(f) project the demand for individuals to enter health care professions, including the~~

nursing profession in accordance with Section 53B-26-202;]

~~[(g)]~~ (f) subject to Section 26B-8-406, share data with any appropriate person as

determined by the information center; and

~~[(h)]~~ (g) conduct research and provide analysis for any state agency as approved by the

executive director or the executive director's designee.

(4) Notwithstanding any other provision of state law, the information center is authorized to obtain data from any state agency if:

(a) the council and the information center deem receiving the data necessary to perform a duty listed under Subsection (3) or 26B-1-425(7); and

(b) the information center's access to the data will not:

(i) violate any federal statute or federal regulation; or

(ii) violate a condition a state agency must follow:

(A) to participate in a federal program; or

(B) to receive federal funds.

Section 35. Section **26B-5-121** is amended to read:

26B-5-121 (Effective upon governor's approval). Voluntary referrals to substance use and mental health services by first responders -- Immunity from liability -- Reporting -- Rulemaking.

(1) As used in this section:

(a) "First responder" means:

(i) a law enforcement officer, as that term is defined in Section 53-13-103;

(ii) emergency medical service personnel, as that term is defined in Section 53-2d-101;

(iii) an emergency medical technician, as that term is defined in Section 53-2e-101;

(iv) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(v) a firefighter, as that term is defined in Section ~~[53B-8e-102]~~ 53H-11-306; or

(vi) a dispatcher, as that term is defined in Section 53-6-102.

(b) "Local services list" means a comprehensive list of local substance use or mental health services, as described in Subsections 17-43-201(5)(b)(iii) and 17-43-301(6)(c).

(2) As and when appropriate, a first responder is encouraged to offer a referral to substance use or mental health services to an individual who experiences an intentional or accidental overdose.

(3) If an individual expresses interest in substance use or mental health services, a first responder may, as appropriate:

- (a) facilitate a real-time connection with an appropriate local service provider;
(b) contact the statewide 988 crisis line for assistance; or
(c) if the individual does not wish to speak with a service provider at that time, provide the individual with a physical copy of a local services list.

(4)(a) This section does not create a duty for a first responder to offer or provide a referral to substance use or mental health services.

(b) A first responder and an employer of a first responder are not liable under this section for a first responder's action or failure to act in regards to offering or providing a referral to substance use or mental health services as described in this section.

(c) This section does not affect any privilege or immunity from liability, exemption from law, ordinance, or rule, or any other benefit that applies to a first responder or an employer of a first responder.

(5)(a) If a first responder offers a referral to substance use or mental health services as described in this section, the first responder's employer shall report annually to the division the total number of individuals who accepted a referral from all first responders employed by the employer.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how the reports required by Subsection (5)(a) shall be submitted.

Section 36. Section **26B-5-310** is amended to read:

26B-5-310 (Effective upon governor's approval). Restrictions and limitations -- Rights and privileges.

(1) Subject to the general rules of the division, subject to the requirement in Subsection (2) that the reason, nature, and extent of any limitation or denial of a patient's right shall be entered in the patient's treatment record, and except to the extent that the director or the director's designee determines that it is necessary for the welfare of the patient or the patient's caretakers to impose restrictions, every patient is entitled to:

- (a)(i) communicate, by sealed mail or otherwise, with persons, including official agencies, inside or outside the responsible mental health authority, local substance abuse authority, or approved treatment facility or program;
(ii) be provided with letter-writing materials, including postage; and
(iii) have staff of the responsible mental health authority, local substance abuse authority, or approved treatment facility or program assist the patient if the patient

- 3055 is unable to write, prepare, or mail correspondence;
- 3056 (b) have frequent and consistent opportunities to receive visitors at reasonable times that
- 3057 do not interfere with clinical activities;
- 3058 (c) speak or visit with the patient's attorney or clergy member within a reasonable period
- 3059 of time;
- 3060 (d) exercise all civil rights, including the right to dispose of property, execute
- 3061 instruments, make purchases, enter contractual relationships, and vote, unless the
- 3062 patient has been adjudicated to be incompetent and has not been restored to legal
- 3063 capacity;
- 3064 (e) while in an inpatient or residential facility, have access to adequate water and food
- 3065 and have the patient's nutritional needs met in a manner that is consistent with
- 3066 recognized dietary practices;
- 3067 (f) be treated fairly, with respect and recognition of the patient's dignity and
- 3068 individuality;
- 3069 (g) not be discriminated against on the basis of a characteristic identified in Subsection
- 3070 57-21-5(1);
- 3071 (h) within 72 business hours after the patient's request, see and receive the services of a
- 3072 patient representative, including a peer specialist or patient advocate, who is not
- 3073 involved in the direct clinical care of the patient;
- 3074 (i) have the patient's behavioral health orders for scope of treatment, declaration for
- 3075 mental health treatment, or other psychiatric advance directive reviewed and
- 3076 considered as the preferred treatment option for involuntary administration of
- 3077 medications by the responsible local mental health authority, local substance abuse
- 3078 authority, or approved treatment facility or program, unless by clear and convincing
- 3079 evidence the patient's directive does not qualify as effective participation in
- 3080 behavioral health decision-making;
- 3081 (j) with the patient's consent, have the patient's information or records disclosed to an
- 3082 adult family member, the patient's lay person, or, in accordance with state and federal
- 3083 law, to a protection and advocacy system designated pursuant to 42 U.S.C. Sec.
- 3084 10801 et seq.;
- 3085 (k)(i) access to a telephone to make and receive private calls, unless determined a
- 3086 clinical or safety risk; and
- 3087 (ii) staff assistance to be able to communicate with others, if the patient does not have
- 3088 a contact list;

- (l) wear the patient's own clothes, keep and use the patient's own possessions, and keep and be allowed to spend a reasonable amount of the patient's own money, unless deemed a clinical or safety risk; and
- (m) be told:
- (i) the reason for the patient's detainment and the limitation of the patient's detainment, including a description of the patient's right to refuse medication unless the patient requires emergency medications; and
 - (ii) that the patient's commitment does not mean all treatment during commitment is mandatory.
- (2)(a) When any right of a patient is limited or denied, the nature, extent, and reason for that limitation or denial shall be entered in the patient's treatment record.
- (b) Information pertaining to a denial of any right of a patient shall be made available, upon request, to the patient, the patient's attorney, and the patient's lay person.
- (c) Any continuing denial or limitation of any right of a patient shall be reviewed every 30 days and shall also be entered in the patient's treatment record.
- (d) Notice of a continuing denial of any right of a patient in excess of 30 days shall be sent to the division, the responsible local mental health authority, the appropriate local substance abuse authority, or an approved treatment facility or program.
- (3) Local mental health authorities, local substance abuse authorities, and approved treatment facilities or programs shall provide reasonable means and arrangements for informing involuntary patients of their right to release as provided in this chapter, and for assisting them in making and presenting requests for release.
- (4) Local mental health facilities, local substance abuse authorities, and approved treatment facilities or programs shall post a statement, created by the division, describing a patient's rights under Utah law.
- (5) A local mental health authority, local substance abuse authority, or approved treatment facility or program may not intentionally retaliate or discriminate against a detained patient or employee for contacting or providing information to any official or to an employee of any state protection and advocacy agency or for initiating, participating in, or testifying in a grievance procedure or in an action for any remedy authorized pursuant to this section.
- (6) Notwithstanding Section [53B-17-303] 53H-4-203, an individual committed under this chapter has the right to determine the final disposition of that individual's body after death.

3123 Section 37. Section **26B-5-801** is amended to read:

3124 **26B-5-801 (Effective upon governor's approval) (Repealed 01/01/33). Definitions**

3125 **-- Creation of committee -- Membership -- Terms.**

3126 (1)(a) As used in this part, "committee" means the Utah Substance Use and Mental
3127 Health Advisory Committee created in this section.

3128 (b) There is created within the department the Utah Substance Use and Mental Health
3129 Advisory Committee, which serves under the direction of the Utah Behavioral Health
3130 Commission created in Section 26B-5-702.

3131 (2) The committee shall be comprised of the following voting members:

- 3132 (a) the attorney general or the attorney general's designee;
- 3133 (b) one elected county official appointed by the Utah Association of Counties;
- 3134 (c) the commissioner of public safety or the commissioner's designee;
- 3135 (d) the director of the Division of Integrated Healthcare or the director's designee;
- 3136 (e) the state superintendent of public instruction or the superintendent's designee;
- 3137 (f) the executive director of the Department of Health and Human Services or the
3138 executive director's designee;
- 3139 (g) the executive director of the State Commission on Criminal and Juvenile Justice or
3140 the executive director's designee;
- 3141 (h) the executive director of the Department of Corrections or the executive director's
3142 designee;
- 3143 (i) the director of the Division of Juvenile Justice and Youth Services or the director's
3144 designee;
- 3145 (j) the director of the Division of Child and Family Services or the director's designee;
- 3146 (k) the chair of the Board of Pardons and Parole or the chair's designee;
- 3147 (l) the director of the Office of Multicultural Affairs or the director's designee;
- 3148 (m) the director of the Division of Indian Affairs or the director's designee;
- 3149 (n) the state court administrator or the state court administrator's designee;
- 3150 (o) one district court judge who presides over a drug court and who is appointed by the
3151 chief justice of the Utah Supreme Court;
- 3152 (p) one district court judge who presides over a mental health court and who is
3153 appointed by the chief justice of the Utah Supreme Court;
- 3154 (q) one juvenile court judge who presides over a drug court and who is appointed by the
3155 chief justice of the Utah Supreme Court;
- 3156 (r) one prosecutor appointed by the Statewide Association of Prosecutors;

- 3157 (s) the chair or co-chair of each subcommittee established by the committee;
3158 (t) the chair or co-chair of the Statewide Suicide Prevention Committee created under
3159 Subsection 26B-5-611(3);
3160 (u) one representative appointed by the Utah League of Cities and Towns to serve a
3161 four-year term;
3162 (v) the chair of the Utah Victim Services Commission or the chair's designee;
3163 (w) the superintendent of the Utah State Hospital or the superintendent's designee;
3164 (x) the following members appointed by the governor to serve four-year terms:
3165 (i) one resident of the state who has been personally affected by a substance use or
3166 mental health disorder; and
3167 (ii) one citizen representative; and
3168 (y) in addition to the voting members described in Subsections (2)(a) through (x), the
3169 following voting members appointed by a majority of the members described in
3170 Subsections (2)(a) through (x) to serve four-year terms:
3171 (i) one resident of the state who represents a statewide advocacy organization for
3172 recovery from substance use disorders;
3173 (ii) one resident of the state who represents a statewide advocacy organization for
3174 recovery from mental illness;
3175 (iii) one resident of the state who represents a statewide advocacy organization for
3176 protection of rights of individuals with a disability;
3177 (iv) one resident of the state who represents prevention professionals;
3178 (v) one resident of the state who represents treatment professionals;
3179 (vi) one resident of the state who represents the physical health care field;
3180 (vii) one resident of the state who is a criminal defense attorney;
3181 (viii) one resident of the state who is a military servicemember or military veteran
3182 under Section ~~[53B-8-402]~~ 53H-11-202;
3183 (ix) one resident of the state who represents local law enforcement agencies;
3184 (x) one representative of private service providers that serve youth with substance use
3185 disorders or mental health disorders; and
3186 (xi) one resident of the state who is certified by the Division of Integrated Healthcare
3187 as a peer support specialist as described in Subsection 26B-5-102(2)(gg).
3188 (3) An individual other than an individual described in Subsection (2) may not be appointed
3189 as a voting member of the committee.
3190 Section 38. Section **26B-8-225** is amended to read:

26B-8-225 (Effective upon governor's approval). Burial of an unclaimed body -- Request by the school of medicine at the University of Utah -- Medical examiner may retain tissue for dog training.

- (1) Except as described in Subsection (2) or (3), a county shall provide, at the county's expense, decent disposition of an unclaimed body found in the county.
- (2) A county is not responsible for decent disposition of an unclaimed body found in the county if the body is requested by the dean of the ~~[school of medicine]~~ School of Medicine at the University of Utah under Section ~~[53B-17-301]~~ 53H-4-203.
- (3) For an unclaimed body that is temporarily in the medical examiner's custody before disposition under Subsection (1), the medical examiner may retain tissue from the unclaimed body in order to donate the tissue to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

Section 39. Section **31A-3-301** is amended to read:

31A-3-301 (Effective upon governor's approval). Tax imposed on surplus lines insurance transactions.

- (1)(a) An insurance transaction under Section 31A-15-103 is subject to a tax of 4-1/4% of gross premiums, less 4-1/4% of return premiums paid to insureds by reason of policy cancellations or premium reductions.
- (b) "Gross premium," for a surplus lines insurance transaction, means the monetary consideration for an insurance policy including the fees charged to the insured, however designated.
- (2) The tax imposed by this section does not apply to:
- (a) ocean marine insurance;
- (b) insurance premiums paid by institutions ~~[within the state system]~~ of higher education [as specified] listed in Section ~~[53B-1-102]~~ 53H-1-102; or
- (c) annuities.
- (3) The department shall deposit a tax imposed by this section ~~[in]~~ into the General Fund.
- (4)(a) A county, city, or municipality within the state may not impose an occupation tax or other tax or fee on a surplus lines insurance transaction.
- (b) Notwithstanding Subsection (4)(a), an insurer, producer, or policyholder may be subject to other taxes not described in Subsection (4)(a).

Section 40. Section **31A-23a-102** is amended to read:

31A-23a-102 (Effective upon governor's approval). Definitions.

3225 As used in this chapter:

3226 (1) "Bail bond producer" is as defined in Section 31A-35-102.

3227 (2) "Designated home state" means the state or territory of the United States or the District
3228 of Columbia:

3229 (a) in which an insurance producer, limited lines producer, consultant, managing general
3230 agent, or reinsurance intermediary licensee does not maintain the licensee's principal:

3231 (i) place of residence; or

3232 (ii) place of business;

3233 (b) if the resident state, territory, or District of Columbia of the licensee does not license
3234 for the line of authority sought, the licensee has qualified for the license as if the
3235 person were a resident in the state, territory, or District of Columbia described in
3236 Subsection (2)(a), including an applicable:

3237 (i) examination requirement;

3238 (ii) fingerprint background check requirement; and

3239 (iii) continuing education requirement; and

3240 (c) if the licensee has designated the state, territory, or District of Columbia as the
3241 designated home state.

3242 (3) "DOD civilian" means the same as that term is defined in Section [53B-8-102]
3243 53H-11-202.

3244 (4) "Home state" means:

3245 (a) a state or territory of the United States or the District of Columbia in which an
3246 insurance producer, limited lines producer, consultant, managing general agent, or
3247 reinsurance intermediary licensee:

3248 (i) maintains the licensee's principal:

3249 (A) place of residence; or

3250 (B) place of business; and

3251 (ii) is licensed to act as a resident licensee; or

3252 (b) if the resident state, territory, or the District of Columbia described in Subsection

3253 (4)(a) does not license for the line of authority sought, a state, territory, or the District
3254 of Columbia:

3255 (i) in which the licensee is licensed;

3256 (ii) in which the licensee is in good standing; and

3257 (iii) that the licensee has designated as the licensee's designated home state.

3258 (5) "Insurer" is as defined in Section 31A-1-301, except that the following persons or

similar persons are not insurers for purposes of Part 7, Producer Controlled Insurers:

(a) a risk retention group as defined in:

(i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;

(ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and

(iii) Chapter 15, Part 2, Risk Retention Groups Act;

(b) a residual market pool;

(c) a joint underwriting authority or association; and

(d) a captive insurer.

(6) "License" is defined in Section 31A-1-301.

(7)(a) "Managing general agent" means a person that:

(i) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office;

(ii) acts as an agent for the insurer whether it is known as a managing general agent, manager, or other similar term;

(iii) produces and underwrites an amount of gross direct written premium equal to, or more than, 5% of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year:

(A) with or without the authority;

(B) separately or together with an affiliate; and

(C) directly or indirectly; and

(iv)(A) adjusts or pays claims in excess of an amount determined by the commissioner; or

(B) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding Subsection (7)(a), the following persons may not be considered as managing general agent for the purposes of this chapter:

(i) an employee of the insurer;

(ii) a United States manager of the United States branch of an alien insurer;

(iii) an underwriting manager that, pursuant to contract:

(A) manages all the insurance operations of the insurer;

(B) is under common control with the insurer;

(C) is subject to Chapter 16, Insurance Holding Companies; and

(D) is not compensated based on the volume of premiums written; and

(iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

- (8) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning a substantive benefit, term, or condition of the contract if the person engaged in that act:
- (a) sells insurance; or
 - (b) obtains insurance from insurers for purchasers.
- (9) "Reinsurance intermediary" means:
- (a) a reinsurance intermediary-broker; or
 - (b) a reinsurance intermediary-manager.
- (10) "Reinsurance intermediary-broker" means a person other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer.
- (11)(a) "Reinsurance intermediary-manager" means a person who:
- (i) has authority to bind or who manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office; and
 - (ii) acts as an agent for the reinsurer whether the person is known as a reinsurance intermediary-manager, manager, or other similar term.
- (b) Notwithstanding Subsection (11)(a), the following persons may not be considered reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:
- (i) an employee of the reinsurer;
 - (ii) a United States manager of the United States branch of an alien reinsurer;
 - (iii) an underwriting manager that, pursuant to contract:
 - (A) manages all the reinsurance operations of the reinsurer;
 - (B) is under common control with the reinsurer;
 - (C) is subject to Chapter 16, Insurance Holding Companies; and
 - (D) is not compensated based on the volume of premiums written; and
 - (iv) the manager of a group, association, pool, or organization of insurers that:
 - (A) engage in joint underwriting or joint reinsurance; and
 - (B) are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.
- (12) "Resident" is as defined by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- 3327 (13) "Sell" means to exchange a contract of insurance:
- 3328 (a) by any means;
- 3329 (b) for money or its equivalent; and
- 3330 (c) on behalf of an insurance company.
- 3331 (14) "Solicit" means:
- 3332 (a) attempting to sell insurance;
- 3333 (b) asking or urging a person to apply for:
- 3334 (i) a particular kind of insurance; and
- 3335 (ii) insurance from a particular insurance company;
- 3336 (c) advertising insurance, including advertising for the purpose of obtaining leads for the
- 3337 sale of insurance; or
- 3338 (d) holding oneself out as being in the insurance business.
- 3339 (15) "Terminate" means:
- 3340 (a) the cancellation of the relationship between:
- 3341 (i) an individual licensee or agency licensee and a particular insurer; or
- 3342 (ii) an individual licensee and a particular agency licensee; or
- 3343 (b) the termination of:
- 3344 (i) an individual licensee's or agency licensee's authority to transact insurance on
- 3345 behalf of a particular insurance company; or
- 3346 (ii) an individual licensee's authority to transact insurance on behalf of a particular
- 3347 agency licensee.
- 3348 (16) "Title examination" means a license subline of authority in conjunction with the title
- 3349 insurance line of authority that allows a person to issue title insurance commitments or
- 3350 policies on behalf of a title insurer.
- 3351 (17) "Title marketing representative" means a person who:
- 3352 (a) represents a title insurer in soliciting, requesting, or negotiating the placing of:
- 3353 (i) title insurance; or
- 3354 (ii) escrow services; and
- 3355 (b) does not have a title examination or escrow license as provided in Section
- 3356 31A-23a-106.
- 3357 (18) "Uniform application" means the version of the National Association of Insurance
- 3358 Commissioners' uniform application for resident and nonresident producer licensing at
- 3359 the time the application is filed.
- 3360 (19) "Uniform business entity application" means the version of the National Association of

Insurance Commissioners' uniform business entity application for resident and nonresident business entities at the time the application is filed.

Section 41. Section **31A-26-102** is amended to read:

31A-26-102 (Effective upon governor's approval). Definitions.

As used in this chapter, unless expressly provided otherwise:

- (1) "Company adjuster" means a person employed by an insurer who negotiates or settles claims on behalf of the insurer or an affiliated insurer.
- (2) "Designated home state" means the state or territory of the United States or the District of Columbia:
 - (a) in which an insurance adjuster does not maintain the adjuster's principal:
 - (i) place of residence; or
 - (ii) place of business;
 - (b) if the resident state, territory, or District of Columbia of the adjuster does not license adjusters for the line of authority sought, the adjuster has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:
 - (i) examination requirement;
 - (ii) fingerprint background check requirement; and
 - (iii) continuing education requirement; and
 - (c) that the adjuster has designated as the insurance adjuster's designated home state.
- (3) "DOD civilian" means the same as that term is defined in Section [53B-8-102] 53H-11-202.
- (4) "Home state" means:
 - (a) a state or territory of the United States or the District of Columbia in which an insurance adjuster:
 - (i) maintains the adjuster's principal:
 - (A) place of residence; or
 - (B) place of business; and
 - (ii) is licensed to act as a resident adjuster; or
 - (b) if the resident state, territory, or the District of Columbia described in Subsection (4)(a) does not license adjusters for the line of authority sought, a state, territory, or the District of Columbia:
 - (i) in which the adjuster is licensed;
 - (ii) in which the adjuster is in good standing; and

- 3395 (iii) that the adjuster has designated as the adjuster's designated home state.
- 3396 (5) "Independent adjuster" means an insurance adjuster required to be licensed under
3397 Section 31A-26-201, who engages in insurance adjusting as a representative of one or
3398 more insurers.
- 3399 (6) "Insurance adjusting" or "adjusting" means directing or conducting the investigation,
3400 negotiation, or settlement of a claim under an insurance policy, on behalf of an insurer,
3401 policyholder, or a claimant under an insurance policy.
- 3402 (7)(a) "Organization" means a person other than a natural person.
- 3403 (b) "Organization" includes a sole proprietorship by which a natural person does
3404 business under an assumed name.
- 3405 (8) "Portable electronics insurance" means the same as that term is defined in Section
3406 31A-22-1802.
- 3407 (9) "Public adjuster" means a person required to be licensed under Section 31A-26-201,
3408 who engages in insurance adjusting as a representative of insureds and claimants under
3409 insurance policies.
- 3410 Section 42. Section **32B-4-424** is amended to read:
- 3411 **32B-4-424 (Effective upon governor's approval). Powdered or vaporized alcohol.**
- 3412 (1) As used in this section:
- 3413 (a) "Powdered alcohol" means a product that is in a powdered or crystalline form and
3414 contains any amount of alcohol.
- 3415 (b) "Vaporized alcohol" means a product created by mixing alcohol with pure oxygen or
3416 another gas to produce a vaporized product for the purpose of consumption through
3417 inhalation.
- 3418 (2) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to
3419 sell, furnish, or possess for human consumption powdered alcohol or vaporized alcohol.
- 3420 (3) It is unlawful for a holder of a retail license to use powdered alcohol or vaporized
3421 alcohol as an alcoholic product.
- 3422 (4) This section does not apply to the use of powdered alcohol or vaporized alcohol for a
3423 commercial use specifically approved by state law or bona fide research purposes by a:
- 3424 (a) health care practitioner that operates primarily for the purpose of conducting
3425 scientific research;
- 3426 (b) department, commission, board, council, agency, institution, division, office,
3427 committee, authority, laboratory, library, unit, bureau, panel, or other administrative
3428 unit of the state, including [a-state] an institution of higher education listed in Section [

3429 ~~53B-2-101]~~ 53H-1-102;

3430 (c) private college or university research facility; or

3431 (d) pharmaceutical or biotechnology company.

3432 Section 43. Section **34-41-101** is amended to read:

3433 **34-41-101 (Effective upon governor's approval). Definitions.**

3434 As used in this chapter:

3435 (1) "Donor" means an employee, a volunteer, a prospective employee, or a prospective
3436 volunteer of a local government entity or [a-state] an institution of higher education.

3437 (2) "Drug" means any substance recognized as a drug in the United States Pharmacopeia,
3438 the National Formulary, the Homeopathic Pharmacopeia, or other drug compendia,
3439 including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of
3440 those compendia.

3441 (3) "Drug testing" means the scientific analysis for the presence of drugs or their
3442 metabolites in the human body in accordance with the definitions and terms of this
3443 chapter.

3444 (4) "Institution of higher education" means the same as that term is defined in Section
3445 53H-1-101.

3446 ~~[(4)]~~ (5) "Local governmental employee" means any person or officer in the service of a
3447 local governmental entity or [state-]institution of higher education for compensation.

3448 ~~[(5)]~~ (6)(a) "Local governmental entity" means any political subdivision of Utah
3449 including any county, municipality, local school district, special district, special
3450 service district, or any administrative subdivision of those entities.

3451 (b) "Local governmental entity" does not mean Utah state government or its
3452 administrative subdivisions provided for in Sections 63A-17-1001 through
3453 63A-17-1006.

3454 ~~[(6)]~~ (7) "Periodic testing" means preselected and preannounced drug testing of employees
3455 or volunteers conducted on a regular schedule.

3456 ~~[(7)]~~ (8) "Prospective employee" means any person who has made a written or oral
3457 application to become an employee of a local governmental entity or [a-state] an
3458 institution of higher education.

3459 ~~[(8)]~~ (9) "Random testing" means the unannounced drug testing of an employee or volunteer
3460 who was selected for testing by using a method uninfluenced by any personal
3461 characteristics other than job category.

3462 ~~[(9)]~~ (10) "Reasonable suspicion for drug testing" means an articulated belief based on the

recorded specific facts and reasonable inferences drawn from those facts that a local government employee or volunteer is in violation of the drug-free workplace policy.

~~[(10)]~~ (11) "Rehabilitation testing" means unannounced but preselected drug testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with the drug-free workplace policy.

~~[(11)]~~ (12) "Safety sensitive position" means any local governmental or ~~[state-]~~institution of higher education position involving duties which directly affects the safety of governmental employees, the general public, or positions where there is access to controlled substances, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties.

~~[(12)]~~ (13) "Sample" means urine, blood, breath, saliva, or hair.

~~[(13) "State institution of higher education" means the institution as defined in Section 53B-3-102.]~~

(14) "Volunteer" means any person who donates services as authorized by the local governmental entity or ~~[state-]~~institution of higher education without pay or other compensation except expenses actually and reasonably incurred.

Section 44. Section **34-41-102** is amended to read:

34-41-102 (Effective upon governor's approval). Governmental drug-free workplace policies.

(1) Any local governmental entity or ~~[state]~~ institution of higher education may establish workplace policies and procedures designed to:

- (a) educate, counsel, and increase awareness of the dangers of drugs; and
- (b) prohibit and discourage the detrimental use of drugs among its various classes of employees and volunteers.

(2) A local governmental entity or ~~[state]~~ institution of higher education may test employees, volunteers, prospective employees, and prospective volunteers for the presence of drugs or their metabolites, in accordance with the provisions of this chapter, as a condition of hiring, continued employment, and voluntary services.

(3) A drug-free workplace policy may include, but does not require, drug testing under the following circumstances:

- (a) preemployment hiring or volunteer selection procedures;
- (b) postaccident investigations;
- (c) reasonable suspicion situations;
- (d) preannounced periodic testing;

- (e) rehabilitation programs;
- (f) random testing in safety sensitive positions; or
- (g) to comply with the federal Drug Free Workplace Act of 1988, 41 U.S.C. Sec. 8101 et seq., or other federally required drug policies.

(4) This section may not be construed to prohibit local governmental entities or [state-] institutions of higher education from establishing policies regarding other hazardous or intoxicating substances.

Section 45. Section **34-41-103** is amended to read:

34-41-103 (Effective upon governor's approval). Policy requirements.

(1)(a) A local governmental entity or [a-state-]institution of higher education may not test a donor for the presence of drugs, unless the local government entity or [state-] institution of higher education:

- (i) adopts a written policy or ordinance for the testing;
- (ii) distributes the policy or ordinance to employees and volunteers; and
- (iii) makes the policy or ordinance available for review by prospective employees and prospective volunteers.

(b) The local governmental entity or [state-]institution of higher education may only test or retest for the presence of drugs in accordance with the policy or ordinance described in Subsection (1)(a).

(2) The local government entity or [state-]institution of higher education:

- (a) shall collect and test samples in accordance with Section 34-41-104; and
- (b) if otherwise permitted by law, is not limited only to collecting or testing in circumstances where there are indications of job-related impairment of an employee or volunteer.

(3) The use and disposition of all drug test results are subject to the limitations of Title 63G, Chapter 2, Government Records Access and Management Act, and the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213.

(4) A donor who is subject to testing under a policy or ordinance described in Subsection (1)(a) shall:

- (a) submit an oral sample for testing; or
- (b) submit a split urine sample for testing or retesting.

(5) Unless the policy or ordinance described in Subsection (1)(a) provides otherwise, the local governmental entity or [state-]institution of higher education may specify the type of sample, described in Subsection (4), that the donor is required to submit.

- (6) A split urine sample shall consist of at least 45 milliliters of urine, divided into two specimen bottles with:
- (a) at least 30 milliliters of urine in one bottle, for the initial test; and
 - (b) at least 15 milliliters of urine in the other bottle for retesting, if requested under Subsection (7).
- (7) If the test results of a urine or oral test indicate the presence of drugs, the local governmental entity or [state-]institution of higher education shall:
- (a) give notice to the donor:
 - (i) of the test results; and
 - (ii) for a urine test, that the donor may, within 72 hours after the local government entity or [state-]institution of higher education provides the notice, request testing of the second sample; and
 - (b) test the second sample if the donor timely requests testing of the second sample.
- (8) The expense of testing the second urine sample will be equally divided between the donor and the local governmental entity or [state-]institution of higher education.
- (9) The test results of the samples shall be considered at any subsequent disciplinary hearing if the requirements of this section and Section 34-41-104 are complied with in the collection, handling, and testing of the samples.
- Section 46. Section **34-41-104** is amended to read:
- 34-41-104 (Effective upon governor's approval). Requirements for identification, collection, and testing of samples.**
- (1) The local governmental entity or [state-]institution of higher education shall ensure that:
- (a) all sample collection under this chapter is performed by an entity independent of the local government or [state-]institution of higher education;
 - (b) all testing for drugs under this chapter is performed by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology;
 - (c) the instructions, chain of custody forms, and collection kits, including containers and seals, used for sample collection are prepared by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology; and
 - (d) sample collection and testing for drugs under this chapter is in accordance with the requirements of this section.
- (2) The local governmental entity or [state-]institution of higher education may:

- 3565 (a) in accordance with a policy or ordinance described in Subsection 34-41-103(1)(a),
3566 require samples from a donor;
- 3567 (b) require presentation of reliable identification to the person collecting the samples; and
3568 (c) in order to dependably test for the presence of drugs, designate the type of sample to
3569 be used for testing.
- 3570 (3) The local governmental entity or [state-]institution of higher education shall ensure that
3571 the local governmental entity's or [state-]institution of higher education's ordinance or
3572 policy requires that:
- 3573 (a) the collection of samples is performed under reasonable and sanitary conditions;
3574 (b) samples are collected and tested:
3575 (i) to ensure the privacy of the individual being tested; and
3576 (ii) in a manner reasonably calculated to prevent substitutions or interference with the
3577 collection or testing of reliable samples;
- 3578 (c) sample collection is appropriately documented to ensure that:
3579 (i) samples are labeled and sealed to reasonably preclude the probability of
3580 erroneous identification of test results; and
3581 (ii) a donor has the opportunity to provide notification of any information:
3582 (A) that a donor considers relevant to the test, including identification of currently
3583 or recently used prescription or nonprescription drugs or other relevant medical
3584 information; and
3585 (B) in compliance with the Americans with Disabilities Act of 1990, 42 U.S.C.
3586 12101 through 12213;
- 3587 (d) sample collection, storage, and transportation to the place of testing are performed in
3588 a manner that reasonably precludes the probability of sample misidentification,
3589 contamination, or adulteration; and
- 3590 (e) sample testing conforms to scientifically accepted analytical methods and procedures.
- 3591 (4) Before the result of any test may be used as a basis for any action by a local
3592 governmental entity or [state-]institution of higher education under Section 34-41-105,
3593 the local governmental entity or [state-]institution of higher education shall[-]:
- 3594 (a) verify or confirm any positive initial screening test by gas chromatography, gas
3595 chromatography-mass spectroscopy, or other comparably reliable analytical methods;
3596 and
- 3597 (b) provide the notice described in Subsection 34-41-103(7), as soon as possible after a
3598 positive test result, at the last known address or telephone number of the donor.

(5) Any drug testing by a local governmental entity or [state-]institution of higher education shall occur during or immediately after the regular work period of the employee or volunteer and shall be considered as work time for purposes of compensation and benefits.

(6) The local governmental entity or [state-]institution of higher education shall pay all costs of sample collection and initial testing for drugs required under the policy or ordinance described in Subsection 34-41-103(1)(a), including the costs of transportation if the testing of an employee or volunteer is conducted at a place other than the workplace.

Section 47. Section **34-41-105** is amended to read:

34-41-105 (Effective upon governor's approval). Rehabilitative and disciplinary actions.

(1) If a verified or confirmed positive drug test result indicates a violation of the local governmental entity's or [state-]institution of higher education's written drug-free workplace policy, if an employee, volunteer, prospective employee, or prospective volunteer refuses to provide a sample in accordance with the written policy, or otherwise violates the written policy, an employer may use that test result, refusal, or violation as the basis for imposing any rehabilitative and disciplinary actions authorized by this section.

(2) If the conditions required by Subsection (1) are met, the employer may:

- (a) require the employee to enroll in a rehabilitation, treatment, or counseling and educational program, approved by the local governmental entity or [state-]institution of higher education as a condition of continued employment or volunteer service;
- (b) suspend the employee with or without pay for a period of time;
- (c) terminate the employment or voluntary services;
- (d) refuse to hire a prospective employee or use the services of a volunteer; and
- (e) impose disciplinary measures in conformance with the usual procedures, including employment contracts of the local governmental entity or [state-]institution of higher education.

Section 48. Section **34-41-107** is amended to read:

34-41-107 (Effective upon governor's approval). No physician-patient relationship created.

A physician-patient relationship is not created between an employee, volunteer, prospective employee, or prospective volunteer, and the local governmental entity, [state-]

institution of higher education, or any person performing the test, solely by the establishment of a drug testing program in the workplace.

Section 49. Section **34-49-102** is amended to read:

34-49-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Public employee" means a person:

- (a) employed by a public employer; and
- (b) who is breastfeeding.

(2) "Public employer" means the following entities:

- (a) a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government;
- (b) a municipality;
- (c) a county;
- (d) a school district; or
- (e) an institution of higher education as described in Section ~~[53B-2-101]~~ 53H-1-102.

Section 50. Section **34A-2-104.5** is amended to read:

34A-2-104.5 (Effective upon governor's approval). Nongovernment entity volunteers.

(1) As used in this section:

- (a)(i) "Intern" means a student or trainee who works without pay at a trade or occupation in order to gain work experience.
- (ii) Notwithstanding Subsection (1)(a)(i), "intern" does not include an intern described in Section 53G-7-903 or ~~[53B-16-403]~~ 53H-3-1003.
- (b) "Nongovernment entity" means an entity or individual that:
 - (i) is an employer as provided in Section 34A-2-103; and
 - (ii) is not a government entity.
- (c) "Utah minimum wage" means the highest wage designated as Utah's minimum wage under Title 34, Chapter 40, Utah Minimum Wage Act.
- (d)(i) "Volunteer" means an individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising nongovernment entity.
- (ii) "Volunteer" includes an intern of a nongovernment entity.
- (iii) "Volunteer" does not include an individual participating in human subjects research to the extent that the participation is governed by federal law or

3667 regulation inconsistent with this chapter.

3668 (2) A volunteer for a nongovernment entity is not an employee of the nongovernment entity
3669 for purposes of this chapter and Chapter 3, Utah Occupational Disease Act, unless the
3670 nongovernment entity elects in accordance with this section to provide coverage under
3671 this chapter and Chapter 3, Utah Occupational Disease Act.

3672 (3)(a) A nongovernment entity may elect to secure coverage for all of the
3673 nongovernment entity's volunteers by obtaining coverage for the volunteers in
3674 accordance with Section 34A-2-201 under the same policy it uses to cover the
3675 nongovernment entity's employees.

3676 (b) If a nongovernment entity obtains coverage under Section 34A-2-201 for the
3677 nongovernment entity's volunteers, for purposes of receiving benefits under this
3678 chapter and Chapter 3, Utah Occupational Disease Act:

- 3679 (i) a volunteer is considered an employee of the nongovernment entity; and
3680 (ii) these benefits are the exclusive remedy of the volunteer in accordance with
3681 Section 34A-2-105 for an industrial injury or disease covered by this chapter and
3682 Chapter 3, Utah Occupational Disease Act.

3683 (4) A nongovernment entity shall keep sufficient records of the nongovernment entity's
3684 volunteers and the volunteers' duties to determine compliance with this section.

3685 (5) To compute the disability compensation benefits under Subsection (3), the disability
3686 compensation shall be calculated in accordance with Part 4, Compensation and Benefits,
3687 with the average weekly wage of the nongovernment volunteer assumed to be the Utah
3688 minimum wage at the time of the industrial accident or occupational disease that is the
3689 basis for the volunteer's workers' compensation claim.

3690 (6) A workers' compensation insurer shall calculate the premium for a nongovernment
3691 entity's volunteer on the basis of the Utah minimum wage on the actual hours the
3692 volunteer provides service to the nongovernment entity, except that a workers'
3693 compensation insurer may assume 30 hours worked per week if the nongovernment
3694 entity does not provide a record of actual hours worked. The imputed wages shall be
3695 assigned to the class code on the policy that best describes the volunteer's duties.

3696 (7) The failure or refusal of a nongovernment entity to make an election under this section
3697 in regard to volunteers does not alter, have an effect on, or give rise to any implication
3698 or presumption regarding:

- 3699 (a) the nongovernment entity's duties or liabilities with respect to volunteers; or
3700 (b) the rights of volunteers.

(8) Subject to Subsection (3)(b)(ii), nothing in this section affects a volunteer's right to seek remedies available to the volunteer through a personal insurance policy that the volunteer obtains for the volunteer in addition to any workers' compensation benefits obtained under this section.

(9) A nongovernment entity shall notify a volunteer of an election under Subsection (3)(a) by posting:

(a) printed notices where volunteers are likely to see the notices in conspicuous places about the nongovernment entity's place of business; and

(b) notices on a website that the nongovernment entity uses to recruit or provide information to volunteers.

Section 51. Section **34A-2-202.5** is amended to read:

34A-2-202.5 (Effective upon governor's approval) (Repealed 12/31/30). Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in [~~Title 53B, Chapter 30, Part 2, Rocky Mountain Center for Occupational and Environmental Health~~] Title 53H, Chapter 5, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing;

(IV) occupational injury prevention; and

(V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Self-insured employer" is a self-insured employer as defined in Section 34A-2-201.5

that is required to pay the assessment imposed under Section 34A-2-202.

(2)(a) A self-insured employer may offset against the assessment imposed under Section 34A-2-202 an amount equal to the lesser of:

(i) the total of qualified donations made by the self-insured employer in the calendar year for which the assessment is calculated; and

(ii) .20% of the self-insured employer's total calculated premium calculated under Subsection 34A-2-202(1)(d) for the calendar year for which the assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a self-insured employer a receipt for any qualified donation made by the self-insured employer to the occupational health and safety center; and

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii).

Section 52. Section **34A-2-410.5** is amended to read:

34A-2-410.5 (Effective upon governor's approval). Employee cooperation with reemployment.

(1) As used in this section:

(a) "Controlled substance" is as defined in Section 58-37-2.

(b) "Correctional facility" means:

(i) a correctional facility as defined in Section 76-8-311.3; or

(ii) a facility operated by or contracting with the federal government to house a criminal offender in either a secure or nonsecure setting.

(c) "Disability claim" means a claim for compensation for:

(i) a temporary total disability benefit; or

(ii) a temporary partial disability benefit.

(d) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

~~[(d)]~~ (e) "Local governmental entity" is as defined in Section 34-41-101.

~~[(e)]~~ (f) "Reemployment" means employment that:

(i) is after an accident or occupational disease that is the basis for a disability claim;

3769 and

3770 (ii) in a manner consistent with [~~Subsection (2)(b)~~] Subsection (2)(a), offers to an
3771 employee an opportunity for earnings, considering the employee's:

3772 (A) education;

3773 (B) experience; and

3774 (C) physical and mental impairment or condition.

3775 [~~(f) "State institution of higher education" means an institution listed in Section~~
3776 ~~53B-3-102.~~]

3777 (g) "Valid prescription" is a prescription, as defined in Section 58-37-2, that is:

3778 (i) prescribed for a controlled substance for use by the employee for whom it is
3779 prescribed; and

3780 (ii) not altered or forged.

3781 (2) In accordance with this section, the commission may reduce or terminate an employee's
3782 disability compensation for a disability claim for good cause shown by the employer
3783 including if:

3784 (a) the employer terminates the employee from the reemployment and the termination is:

3785 (i) reasonable;

3786 (ii) for cause; and

3787 (iii) as a result, in whole or in part, of:

3788 (A) criminal conduct;

3789 (B) violent conduct; or

3790 (C) a violation of a reasonable, written workplace health, safety, licensure, or
3791 nondiscrimination rule that is applied in a manner that is reasonable and
3792 nondiscriminatory;

3793 (b) the employee is incarcerated in a correctional facility for a period of time that would
3794 result in the termination of the employee's reemployment in accordance with a
3795 reasonable, written workplace rule that is applied in a manner that is reasonable and
3796 nondiscriminatory; or

3797 (c) subject to Subsection (6), the employee is terminated from the reemployment:

3798 (i)(A) for use of a controlled substance that the employee did not obtain under a
3799 valid prescription;

3800 (B) for intentional abuse of a controlled substance that the employee obtained
3801 under a valid prescription, if the employee uses the controlled substance
3802 intentionally;

(I) in excess of a prescribed therapeutic amount; or

(II) in an otherwise abusive manner; or

(C) for the use of alcohol that results in intoxication from alcohol with a blood or breath alcohol concentration of .05 grams or greater; and

(ii) in accordance with a reasonable, written workplace rule that is applied in a manner that is reasonable and nondiscriminatory.

(3) Notwithstanding the other provisions of this section, the employee described in Subsection (2) is eligible for medical benefits to the extent otherwise allowed under this title.

(4)(a) An employer or the employer's insurance carrier may file an application for a hearing with the Division of Adjudication to request that an employee's disability compensation for a disability claim be reduced or terminated under this section.

(b) An action under this Subsection (4) is barred if an application for a hearing is not filed within one year from the day on which the employer terminates the employee from reemployment as described in Subsection (2).

(c) An employer or the employer's insurance carrier shall notify the employee that the employer or employer's insurance carrier has filed a request for a hearing under this section within three business days of the day on which the filing is made.

(5)(a) The commission may reduce or terminate the disability compensation of an employee for a disability claim if after a hearing requested under Subsection (4), the commission determines that the conditions of Subsection (2) are met.

(b) The commission shall issue an order as to whether or not an employee's disability compensation is reduced or terminated under this section by no later than 45 days from the day on which an application for a hearing is filed.

(c) A reduction or termination of disability compensation under this Subsection (5) takes effect on the day determined by the commission.

(d) If the disability compensation is ordered terminated or reduced, the employer or employer's insurance carrier shall treat a resulting overpayment as an offset against the employer's or employer's insurance carrier's future obligations to pay disability compensation to the employee.

(6)(a) For purposes of Subsection (2)(c), the commission may consider a chemical test that conforms to scientifically accepted analytical methods and procedures and includes verification or confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or other comparably

reliable analytical method showing that the employee has:

(i) in the employee's system during employment:

(A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled substance under a valid prescription; or

(B) a controlled substance the employee obtained under a valid prescription or the metabolites of the controlled substance if the amount in the employee's system is consistent with the employee using the controlled substance intentionally:

(I) in excess of prescribed therapeutic amounts; or

(II) in an otherwise abusive manner; or

(ii) a blood or breath alcohol concentration of .05 grams or greater during employment.

(b) A local governmental entity or [state] an institution of higher education shall comply with Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies, in engaging in a test for a controlled substance that is the basis of a presumption under this section.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) describing factors to be considered under Subsection (2); and

(b) related to the procedures for a request for a hearing under this section.

(8) The adjudication of a dispute arising under this section is governed by Part 8, Adjudication.

(9) An issue related to an employee's cooperation with regard to a claim for compensation for permanent total disability benefits is governed by Section 34A-2-413.

Section 53. Section **34A-2-701** is amended to read:

34A-2-701 (Effective upon governor's approval). Premium assessment restricted account for safety.

(1) There is created in the General Fund a restricted account known as the "Workplace Safety Account."

(2)(a) An amount equal to 0.25% of the premium income remitted to the state treasurer pursuant to Subsection 59-9-101(2)(c)(ii) shall be deposited in the Workplace Safety Account in the General Fund for use as provided in this section.

(b) Beginning with fiscal year 2008-09, if the balance in the Workplace Safety Account exceeds \$500,000 at the close of a fiscal year, the excess shall be transferred to:

(i) the Employers' Reinsurance Fund, created under Subsection 34A-2-702(1); or

- 3871 (ii) if the commissioner has made the notification described in Subsection
3872 34A-2-702(7), the Uninsured Employers' Fund created in Section 34A-2-704.
- 3873 (3) The Legislature shall appropriate from the restricted account money to one or both of
3874 the following:
- 3875 (a) money to the commission for use by the commission to:
- 3876 (i) improve safety consultation services available to Utah employers;
- 3877 (ii) provide for electronic or print media advertising campaigns designed to promote
3878 workplace safety; or
- 3879 (iii) pay the salary and benefits of an employee of the commission who is an
3880 authorized representative of the Division of Occupational Safety and Health under
3881 Chapter 6, Part 3, Enforcement; and
- 3882 (b) subject to Subsection (7), money known as the "Eddie P. Mayne Workplace Safety
3883 and Occupational Health Funding Program":
- 3884 (i) to an institution [~~within the state system~~] of higher education, as defined in
3885 Section [~~53B-1-102~~] 53H-1-101; and
- 3886 (ii) to be expended by an education and research center that is:
- 3887 (A) affiliated with the institution described in Subsection (3)(b)(i); and
- 3888 (B) designated as an education and research center by the National Institute for
3889 Occupational Safety and Health.
- 3890 (4) From money appropriated by the Legislature from the restricted account to the
3891 commission for use by the commission, the commission may fund other safety programs
3892 or initiatives recommended to it by its state workers' compensation advisory council
3893 created under Section 34A-2-107.
- 3894 (5)(a) The commission shall annually report to the governor, the Legislature, and its
3895 state council regarding:
- 3896 (i) the use of the money appropriated to the commission under Subsection (3) or (4);
3897 and
- 3898 (ii) the impact of the use of the money on the safety of Utah's workplaces.
- 3899 (b) By no later than August 15 following a fiscal year in which an education and
3900 research center receives money from an appropriation under Subsection (3)(b), the
3901 education and research center shall report:
- 3902 (i) to:
- 3903 (A) the governor;
- 3904 (B) the Legislature;

(C) the commission; and

(D) the state workers' compensation advisory council created under Section 34A-2-107; and

(ii) regarding:

(A) the use of the money appropriated under Subsection (3)(b); and

(B) the impact of the use of the money on the safety of Utah's workplaces.

(6) The money deposited in the restricted account:

(a) shall be:

(i) used only for the activities described in Subsection (3) or (4); and

(ii) expended according to processes that can be verified by audit; and

(b) may not be used by the commission for:

(i) administrative costs unrelated to the restricted account; or

(ii) any activity of the commission other than the activities of the commission described in Subsection (3) or (4).

(7) The total of appropriations under Subsection (3)(b) may not exceed for a fiscal year an amount equal to 20% of the premium income remitted to the state treasurer pursuant to Subsection 59-9-101(2)(c) and deposited in the Workplace Safety Account during the previous fiscal year.

Section 54. Section **34A-3-101** is amended to read:

34A-3-101 (Effective upon governor's approval). Title -- Definitions.

(1) This chapter is known as the "Utah Occupational Disease Act."

(2) For purposes of this chapter:

(a) "Division" means the Division of Industrial Accidents.

(b) "Fire and rescue training program" means the program described in Section [53B-29-202] 53H-4-705.

(c)(i) "Firefighter" means a member of a public fire department or other public firefighting organization that provides fire suppression and other fire-related service who is responsible for or serves in a capacity that includes responsibility for the extinguishment of fires.

(ii) "Firefighter" includes:

(A) an individual who is a designated personal protective equipment technician; or

(B) a volunteer safety officer as described in Subsection 67-20-2(10)(b)(ii).

(iii)(A) "Firefighter" does not include any other individual whose job description, duties, or responsibilities do not include direct involvement in fire suppression;

3939 or

3940 (B) individuals who provide private suppression or other private fire-related
3941 protection services.

3942 (d) "Presumptive cancer" means one or more of the following cancers:

3943 (i) bladder;

3944 (ii) brain;

3945 (iii) colorectal;

3946 (iv) esophageal;

3947 (v) kidney;

3948 (vi) leukemias;

3949 (vii) lung;

3950 (viii) lymphomas;

3951 (ix) melanomas;

3952 (x) mesotheliomas;

3953 (xi) oropharynx;

3954 (xii) ovarian;

3955 (xiii) prostate;

3956 (xiv) testicular; and

3957 (xv) thyroid.

3958 (e) "Rocky Mountain Center for Occupational and Environmental Health" means the
3959 center described in Section ~~[53B-30-203]~~ 53H-5-202.

3960 Section 55. Section **35A-1-102** is amended to read:

3961 **35A-1-102 (Effective upon governor's approval). Definitions.**

3962 Unless otherwise specified, as used in this title:

3963 (1) "Client" means an individual who the department has determined to be eligible for
3964 services or benefits under:

3965 (a) Chapter 3, Employment Support Act; and

3966 (b) Chapter 5, Training and Workforce Improvement Act.

3967 (2) "Department" means the Department of Workforce Services created in Section
3968 35A-1-103.

3969 (3) "Economic service area" means an economic service area established in accordance
3970 with Chapter 2, Economic Service Areas.

3971 (4) "Employment assistance" means services or benefits provided by the department under:

3972 (a) Chapter 3, Employment Support Act; and

- 3973 (b) Chapter 5, Training and Workforce Improvement Act.
- 3974 (5) "Employment center" is a location in an economic service area where the services
3975 provided by an economic service area under Section 35A-2-201 may be accessed by a
3976 client.
- 3977 (6) "Employment counselor" means an individual responsible for developing an
3978 employment plan and coordinating the services and benefits under this title in
3979 accordance with Chapter 2, Economic Service Areas.
- 3980 (7) "Employment plan" means a written agreement between the department and a client that
3981 describes:
- 3982 (a) the relationship between the department and the client;
- 3983 (b) the obligations of the department and the client; and
- 3984 (c) the result if an obligation is not fulfilled by the department or the client.
- 3985 (8) "Executive director" means the executive director of the department appointed under
3986 Section 35A-1-201.
- 3987 (9) "Government entity" means the state or any county, municipality, special district,
3988 special service district, or other political subdivision or administrative unit of the state, [
3989 a state] an institution of higher education as defined in Section [~~53B-2-101~~] 53H-1-101,
3990 or a local education agency as defined in Section 53G-7-401.
- 3991 (10) "Public assistance" means:
- 3992 (a) services or benefits provided under Chapter 3, Employment Support Act;
- 3993 (b) medical assistance provided under Title 26B, Chapter 3, Health Care -
3994 Administration and Assistance;
- 3995 (c) foster care maintenance payments provided from the General Fund or under Title
3996 IV-E of the Social Security Act;
- 3997 (d) SNAP benefits; and
- 3998 (e) any other public funds expended for the benefit of a person in need of financial,
3999 medical, food, housing, or related assistance.
- 4000 (11) "SNAP" means the federal "Supplemental Nutrition Assistance Program" under Title 7,
4001 U.S.C. Chapter 51, Supplemental Nutrition Assistance Program, formerly known as the
4002 federal Food Stamp Program.
- 4003 (12) "SNAP benefit" or "SNAP benefits" means a financial benefit, coupon, or privilege
4004 available under SNAP.
- 4005 (13) "Stabilization" means addressing the basic living, family care, and social or
4006 psychological needs of the client so that the client may take advantage of training or

4007 employment opportunities provided under this title or through other agencies or
4008 institutions.

- 4009 (14) "Vulnerable populations" means children or adults with a life situation that
4010 substantially affects that individual's ability to:
- 4011 (a) provide personal protection;
 - 4012 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
 - 4013 (c) obtain services necessary for health, safety, or welfare;
 - 4014 (d) carry out the activities of daily living;
 - 4015 (e) manage the adult's own financial resources; or
 - 4016 (f) comprehend the nature and consequences of remaining in a situation of abuse,
4017 neglect, or exploitation.

4018 Section 56. Section **35A-1-109** is amended to read:

4019 **35A-1-109 (Effective upon governor's approval). Annual report -- Content --**
4020 **Format.**

- 4021 (1) The department shall prepare and submit to the governor and the Legislature, by
4022 October 1 of each year, an annual written report of the operations, activities, programs,
4023 and services of the department, including [its] the department's divisions, offices, boards,
4024 commissions, councils, and committees, for the preceding fiscal year.
- 4025 (2) For each operation, activity, program, or service provided by the department, the annual
4026 report shall include:
- 4027 (a) a description of the operation, activity, program, or service;
 - 4028 (b) data and metrics:
 - 4029 (i) selected and used by the department to measure progress, performance,
4030 effectiveness, and scope of the operation, activity, program, or service, including
4031 summary data; and
 - 4032 (ii) that are consistent and comparable for each state operation, activity, program, or
4033 service that primarily involves employment training or placement as determined
4034 by the executive director, the commissioner of higher education, and the executive
4035 director of the Governor's Office of Planning and Budget;
 - 4036 (c) budget data, including the amount and source of funding, expenses, and allocation of
4037 full-time employees for the operation, activity, program, or service;
 - 4038 (d) historical data from previous years for comparison with data reported under
4039 Subsections (2)(b) and (c);
 - 4040 (e) goals, challenges, and achievements related to the operation, activity, program, or

service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent, Education, and Industry Alignment Board created in Section ~~[53B-34-102]~~ 53H-13-302.

Section 57. Section **35A-9-601** is amended to read:

35A-9-601 (Effective upon governor's approval) (Repealed 07/01/28). Definitions.

As used in this part:

(1) "529 savings account" means a tax-advantaged method of saving for higher education costs that:

(a) meets the requirements of Section 529, Internal Revenue Code; and

(b) is managed by the plan.

(2) "Beneficiary" means the individual designated:

(a) in a 529 savings account agreement between a person, an estate, or a trust and the plan; and

(b) to benefit from the amount saved in a 529 savings account.

(3) "Commission" means the State Tax Commission.

(4) "Deposit" means the payment of money from a source other than a match.

(5) "Eligible 529 savings account" means a 529 savings account for which:

(a) a qualifying individual is the account owner; and

(b) a qualifying individual or a minor dependent of a qualifying individual is a beneficiary.

(6) "Federal earned income tax credit" means the federal earned income tax credit:

- 4075 (a) described in Section 32, Internal Revenue Code; and
4076 (b) that a qualifying individual claims and is eligible to claim on the federal income tax
4077 return for the taxable year.

4078 (7) "Match" means the monetary amount described in Subsection 35A-9-603(2).

4079 (8) "Minor dependent" means an individual under 19 years old for whom a qualifying
4080 individual can claim a tax credit under Section 24, Internal Revenue Code, on the
4081 qualifying individual's federal income tax return for the taxable year.

4082 (9) "Plan" means the Utah Educational Savings Plan created in Section [~~53B-8a-103~~]
4083 53H-10-202.

4084 (10) "Program" means the Education Savings Incentive Program created in Section
4085 35A-9-603.

4086 (11) "Qualifying individual" means an individual who the department identifies as
4087 experiencing intergenerational poverty and who has not been disqualified from
4088 participating in the program for overclaiming a match in a previous year.

4089 Section 58. Section **35A-9-604** is amended to read:

4090 **35A-9-604 (Effective upon governor's approval) (Repealed 07/01/28).**

4091 **Application for program.**

4092 (1) The department shall provide to each qualifying individual:

- 4093 (a) notice of the program;
4094 (b) information about the benefits of participating in the program;
4095 (c) information explaining that participation in the program requires that the qualifying
4096 individual:
4097 (i) apply for the program in accordance with this section;
4098 (ii) be eligible for and claim a federal earned income tax credit for the taxable year
4099 before the year in which the qualifying individual applies for the program;
4100 (iii) own one or more eligible 529 savings accounts into which a deposit is made
4101 during the same year for which the qualifying individual applies for the program;
4102 and
4103 (iv) sign an information release;
4104 (d) information about how to claim a federal earned income tax credit;
4105 (e) information about how to open an eligible 529 savings account; and
4106 (f) information about how to apply for the program.

4107 (2)(a) To participate in the program, a qualifying individual shall complete annually an
4108 online application that includes:

- 4109 (i) a means for a qualifying individual to sign the information release described in
4110 Subsection (2)(b);
- 4111 (ii) a statement that the qualifying individual claimed a federal earned income tax
4112 credit for the previous taxable year;
- 4113 (iii) the name of the account owner, the name of the beneficiary, and the account
4114 number of any of the qualifying individual's eligible 529 savings accounts;
- 4115 (iv) the amount of deposit into one or more of the qualifying individual's eligible 529
4116 savings accounts during the calendar year in which the application is made;
- 4117 (v) the allocation of the match among the qualifying individual's eligible 529 savings
4118 accounts; and
- 4119 (vi) any other information required by the department, the plan, or the commission to
4120 administer the program.
- 4121 (b) The department, the plan, and the commission shall develop an information release
4122 that directs and allows:
- 4123 (i) the department to report to the plan:
- 4124 (A) the name and identifying information of the qualifying individual;
- 4125 (B) contact information for the qualifying individual; and
- 4126 (C) the name of the account owner, the name of the beneficiary, and the account
4127 number of any eligible 529 savings account;
- 4128 (ii) the plan to report to the department:
- 4129 (A) the account number, name of the account owner, and the name of the
4130 beneficiary for each eligible 529 savings account into which a deposit was
4131 made during the calendar year; and
- 4132 (B) the amount of deposit made into each eligible 529 savings account for the
4133 calendar year;
- 4134 (iii) the department to disclose to the commission, if the plan lists the qualifying
4135 individual on the report described in Section ~~[53B-8a-302]~~ 53H-10-402, the name
4136 and identifying information of the qualifying individual; and
- 4137 (iv) the commission to disclose to the department, whether the qualifying individual
4138 claimed a federal earned income tax credit on the qualifying individual's federal
4139 income tax return for a taxable year.
- 4140 (3)(a) The department shall provide to the plan the information described in Subsection
4141 (2)(b)(i) for each qualifying individual that the department determines completes the
4142 application requirements described in Subsection (2).

- (b) The department shall provide the information described in Subsection (3)(a):
- (i) in a single report; and
 - (ii) with information about which calendar year the department requests a report under Section ~~[53B-8a-302]~~ 53H-10-402.

(4)(a) The department may provide to the commission the information described in Subsection (2)(b)(iii) for each qualifying individual that the plan lists on the report described in Section ~~[53B-8a-302]~~ 53H-10-402.

- (b) The department shall provide the information described in Subsection (4)(a):
- (i) in a single report; and
 - (ii) with information about which calendar year the department requires a disclosure under Subsection 59-1-403(4)(aa).

(5) The department, the plan, and the commission shall provide for the security and maintenance of confidentiality of any information shared under an information release.

(6)(a) The department shall determine whether an applicant for the program:

- (i) is a qualifying individual; and
 - (ii) meets the program requirements described in this section.
- (b) An applicant may not appeal the department's determination that the applicant is not a qualifying individual.
- (c) An applicant may reapply if the department later identifies the applicant as a qualifying individual.

Section 59. Section **36-12-15.1** is amended to read:

36-12-15.1 (Effective upon governor's approval). Systemic performance audits.

(1) As used in this section, "entity" means:

- (a) an entity in the executive branch that receives an ongoing line item appropriation in an appropriations act; and
- (b) any local education agency, as defined in Section 53E-1-102, that receives public funds.

(2)(a) Each year, subject to the availability of work capacity and the discretion of the Legislative Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General may, in addition to other audits performed by the office, perform a systemic performance audit of:

- (i) one or more executive branch entities;
- (ii) one or more local education agencies;
- (iii) one or more institutions of higher education as defined in Section 53H-1-101; and

- 4177 (iv) one or more independent entities.
- 4178 (b) An audit performed under Subsection (2)(a) shall, as is appropriate for each
4179 individual audit:
- 4180 (i) evaluate the extent to which the entity has efficiently and effectively used the
4181 appropriation by identifying:
- 4182 (A) the entity's appropriation history;
- 4183 (B) the entity's spending and efficiency history; and
- 4184 (C) historic trends in the entity's operational performance effectiveness;
- 4185 (ii) evaluate whether the entity's size and operation are commensurate with the
4186 entity's spending history;
- 4187 (iii) evaluate whether the entity is diligent in [its] the entity's stewardship of resources;
- 4188 (iv) provide a systemic performance audit of the entity's operations performance
4189 improvements;
- 4190 (v) if possible, incorporate the audit methodology of other audits performed by the
4191 Office of the Legislative Auditor General; and
- 4192 (vi) be conducted according to the process established for the Legislative Audit
4193 Subcommittee.
- 4194 (c) In conducting an audit of an institution of higher education, as defined in Section
4195 53H-1-101, under Subsection (2)(a)(iii), the Office of the Legislative Auditor General
4196 shall, in addition to the subjects of evaluation described in Subsection (2)(b), review
4197 the institution's admissions practices for:
- 4198 (i) compliance with applicable laws, rules, and policies;
- 4199 (ii) best practices; and
- 4200 (iii) efficiency and effectiveness.
- 4201 (d) After releasing an audit report under Subsection (2)(a), the Legislative Audit
4202 Subcommittee shall make the audit report available to:
- 4203 (i) each member of the Senate and the House of Representatives; and
- 4204 (ii) the governor or the governor's designee.
- 4205 (e) The Office of the Legislative Auditor General shall:
- 4206 (i) summarize the findings of an audit described in Subsection (2)(a); and
- 4207 (ii) provide a copy of each audit report and the annual report to the legislative fiscal
4208 analyst and director of the Office of Legislative Research and General Counsel as
4209 soon as each report is completed.
- 4210 (3) The Office of the Legislative Auditor General may consult with the Office of the

Legislative Fiscal Analyst or the Office of Legislative Research and General Counsel in preparing the summary required by ~~[Subsection (2)(d)]~~ Subsection (2)(e).

(4) The Legislature, in evaluating an entity's request for an increase in its base budget, shall:

(a) review the audit report required by this section and any relevant audits; and

(b) consider the entity's request for an increase in its base budget in light of the entity's prior history of savings and efficiencies as evidenced by the audit report required by this section.

Section 60. Section **36-12-15.4** is amended to read:

36-12-15.4 (Effective upon governor's approval). Legislative auditor general -- Review of Utah System of Higher Education.

(1) As used in this section:

(a) "Board" means the Utah Board of Higher Education, created in Section ~~[53B-1-402]~~ 53H-1-203.

(b) "Institution" means ~~[an institution within the Utah System of Higher Education]~~ the same as that term is defined in Section 53H-1-101.

(c) "Office" means the Office of the Legislative Auditor General created in Section 36-12-15.

(d) "System" means the Utah System of Higher Education described in Section ~~[53B-1-102]~~ 53H-1-102.

(2) As directed by the Legislative Audit Subcommittee, the office may:

(a) review and monitor the system, board, and an institution;

(b) identify areas where the system, board, and an institution can enhance performance, effectiveness, and efficiency, or otherwise meet responsibilities set forth for the system in statute; and

(c) establish a list of high-risk programs, operations, and functions in the system that may require executive action, or have capacity for improved efficiency or effectiveness.

(3) Upon request, the system, board, or an institution shall provide to the office information, materials, or resources in accordance with Subsection 36-12-15(8).

(4) The legislative auditor general shall report findings to and regularly update the Legislative Audit Subcommittee and board.

Section 61. Section **41-1a-1601** is amended to read:

41-1a-1601 (Effective upon governor's approval). Definitions.

As used in this part:

- (1) "Applicant" means a registered owner who submits an application to obtain or renew a sponsored special group license plate in accordance with this part.
- (2)(a) "Charitable purpose" means:
- (i) relief of the poor, the distressed, or the underprivileged;
 - (ii) advancement of religion;
 - (iii) advancement of education or science;
 - (iv) erecting or maintaining a public building, monument, or work;
 - (v) reducing the burdens of government;
 - (vi) reducing neighborhood tensions;
 - (vii) eliminating prejudice and discrimination;
 - (viii) defending human rights and civil rights secured by law; or
 - (ix) combating community deterioration and juvenile delinquency.
- (b) "Charitable purpose" does not include providing, encouraging, or paying for the costs of obtaining an abortion.
- (3) "Collegiate special group license plate" means a sponsored special group license plate issued to a contributor to an institution.
- (4) "Contributor" means an applicant who contributes the required contribution to a sponsoring organization for a sponsored special group license plate.
- (5) "Corporate brand sponsored special group license plate" means a sponsored special group license plate with a sponsoring organization that is a private business.
- (6)(a) "Existing special group license plate" means a special group license plate that the division issues before January 1, 2024.
- (b) "Existing special group license plate" does not include a special group license plate described in Subsection 41-1a-418(1)(a) or (b).
- (7) "Existing state agency recognition special group license plate" means an existing special group license plate issued to a registered owner who:
- (a) has a special license that supports or furthers a government purpose;
 - (b) has received an honor that supports or furthers a government purpose;
 - (c) has achieved an accomplishment that supports or furthers a government purpose; or
 - (d) holds an elected office.
- (8) "Institution" means:
- (a) ~~[a state-]~~ an institution of higher education as defined in Section ~~[53B-3-102]~~ 53H-1-101; or
 - (b) ~~[a private institution of higher education in the state accredited by a regional or~~

~~national accrediting agency recognized by the United States Department of Education]~~
a private postsecondary educational institution as defined in Section 53H-1-101.

- (9) "Major league sport" means the same as that term is defined in Section 11-70-101.
- (10)(a) "Private nonprofit organization" means a private nonprofit organization that:
- (i) qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and
 - (ii) has a charitable purpose.
- (b) "Private nonprofit organization" does not include an organization that provides, encourages, or pays for the costs of obtaining an abortion.
- (11) "Private nonprofit special group license plate" means a sponsored special group license plate issued to a contributor to a private nonprofit organization.
- (12) "Required contribution" means:
- (a) the minimum annual contribution amount established under Subsection 41-1a-1603(4)(a)(iii); or
 - (b) if the sponsoring organization establishes a minimum annual contribution amount in accordance with Subsection 41-1a-1603(4)(b) that is greater than the minimum required contribution amount established under Subsection 41-1a-1603(4)(a)(iii), the amount the sponsoring organization establishes.
- (13) "Special group license plate" means:
- (a) a collegiate special group license plate;
 - (b) a private nonprofit special group license plate;
 - (c) a corporate brand sponsored special group license plate;
 - (d) a major league sports team sponsored special group license plate;
 - (e) a sponsored special group license plate;
 - (f) a state agency recognition special group license plate; or
 - (g) a state agency support special group license plate.
- (14) "Sponsored special group license plate" means a license plate:
- (a) designed for and associated with a sponsoring organization; and
 - (b) issued to an applicant in accordance with this part.
- (15) "Sponsoring organization" means an institution, a private nonprofit organization, a private business, or a state agency that is or seeks to be associated with a sponsored special group license plate created under this part.
- (16) "State agency recognition special group license plate" means a sponsored special group license plate issued to an applicant who:

- (a) has a special license that supports or furthers a government purpose;
- (b) has received an honor that supports or furthers a government purpose;
- (c) has achieved an accomplishment that supports or furthers a government purpose; or
- (d) holds an elected office.

(17)(a) "State agency support special group license plate" means:

- (i) a sponsored special group license plate issued to a contributor to a state agency to support a specific state agency program; or
- (ii) an existing special group license plate issued for a special interest vehicle.

(b) "State agency support special group license plate" includes a cancer support license plate created by an act of the Legislature before December 31, 2022.

Section 62. Section **41-1a-1605** is amended to read:

41-1a-1605 (Effective upon governor's approval). Collegiate special group license plates.

(1) A sponsoring organization that is an institution may use funds received through the sponsored special group license plate program only for:

- (a) the institution's academic scholarships; or
- (b) the institution's intercollegiate athletics program for compensation for a student athlete's name, image, or likeness as described in [~~Title 53B, Chapter 16, Part 6, Use of Student Athlete's Name, Image, and Likeness in Collegiate Athletics~~] Title 53H, Chapter 6, Part 2, Athletics.

(2) The state auditor may audit each institution to verify that the money an institution collects from contributors is used only for the uses described in Subsection (1).

(3) A sponsoring organization that is an institution may establish the contribution amount required to obtain the institution's collegiate special group license plate.

Section 63. Section **41-6a-2003** is amended to read:

41-6a-2003 (Effective upon governor's approval). Automatic license plate reader systems -- Restrictions.

(1) Except as provided in Subsection (2), a governmental entity may not use an automatic license plate reader system.

(2) Subject to Subsection (3), an automatic license plate reader system may be used:

- (a) by a law enforcement agency to access captured license plate data:
 - (i) as part of an active criminal investigation;
 - (ii) to apprehend an individual with an outstanding warrant;
 - (iii) to locate a missing or endangered person; or

- 4347 (iv) to locate a stolen vehicle;
- 4348 (b) by a law enforcement agency to access the Utah Criminal Justice Information
- 4349 System to:
- 4350 (i) verify valid vehicle registration information;
- 4351 (ii) confirm vehicle identification;
- 4352 (iii) verify insurance information; or
- 4353 (iv) identify a stolen vehicle;
- 4354 (c) by a governmental parking enforcement entity for the purpose of enforcing state and
- 4355 local parking laws;
- 4356 (d) by a parking enforcement entity for regulating the use of a parking facility;
- 4357 (e) for the purpose of controlling access to a secured area;
- 4358 (f) for the purpose of collecting an electronic toll;
- 4359 (g) for the purpose of enforcing motor carrier laws;
- 4360 (h) by a public transit district for the purpose of assessing parking needs and conducting
- 4361 a travel pattern analysis;
- 4362 (i) by an institution of higher education [~~within the state system of higher education~~] as
- 4363 described in Section [~~53B-1-102~~] 53H-1-102:
- 4364 (i) for a purpose described in Subsections (2)(a) through (e); or
- 4365 (ii) if the data collected is anonymized, for research and educational purposes;
- 4366 (j) by the Utah Inland Port Authority, created in Section 11-58-201, or by a contractor of
- 4367 the Utah Inland Port Authority with the approval of the board of the Utah Inland Port
- 4368 Authority, if:
- 4369 (i) the automatic license plate reader system is used only within a project area, as
- 4370 defined in Section 11-58-102, of the Utah Inland Port Authority;
- 4371 (ii) the purpose of using the automatic license plate reader system is to improve
- 4372 supply chain efficiency or the efficiency of the movement of goods by analyzing
- 4373 and researching data related to commercial vehicle traffic; and
- 4374 (iii) specific license plate information is anonymized; or
- 4375 (k) by an international airport owned by a governmental entity for the purpose of
- 4376 promoting efficient regulation and implementation of traffic control and direction,
- 4377 parking, security, and other similar operational objectives on the airport campus.
- 4378 (3) A law enforcement agency may not use an automatic license plate reader system unless:
- 4379 (a) the law enforcement agency has a written policy regarding the use, management, and
- 4380 auditing of the automatic license plate reader system;

(b) for any stationary device installed with the purpose of capturing license plate data of vehicles traveling on a state highway, the law enforcement agency obtains a special use permit as described in Section 72-1-212 from the Department of Transportation before installing the device; and

(c) the policy under Subsection (3)(a) and any special use permits granted in accordance with Subsection (3)(b) are:

(i) posted and publicly available on the appropriate city, county, or state website; or

(ii) posted on the Utah Public Notice Website created in Section 63A-16-601 if the law enforcement agency does not have access to a website under Subsection (3)(c)(i).

Section 64. Section **49-11-102** is amended to read:

49-11-102 (Effective upon governor's approval). Definitions.

As used in this title:

(1)(a) "Active member" means a member who:

(i) is employed by a participating employer and accruing service credit; or

(ii) within the previous 120 days:

(A) has been employed by a participating employer; and

(B) accrued service credit.

(b) "Active member" does not include a retiree.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.

(3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.

(4)(a) "Agency" means:

(i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, special district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

- 4415 (6) "Alternate payee" means a member's former spouse or family member eligible to
4416 receive payments under a Domestic Relations Order in compliance with Section
4417 49-11-612.
- 4418 (7) "Amortization rate" means the board certified percent of salary required to amortize the
4419 unfunded actuarial accrued liability in accordance with policies established by the board
4420 upon the advice of the actuary.
- 4421 (8) "Annuity" means monthly payments derived from member contributions.
- 4422 (9) "Appointive officer" means an employee appointed to a position for a definite and fixed
4423 term of office by official and duly recorded action of a participating employer whose
4424 appointed position is designated in the participating employer's charter, creation
4425 document, or similar document, and:
- 4426 (a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in
4427 Section 49-12-407 for a Tier I appointive officer; and
- 4428 (b) whose appointive position is full-time as certified by the participating employer for a
4429 Tier II appointive officer.
- 4430 (10)(a) "At-will employee" means a person who is employed by a participating
4431 employer and:
- 4432 (i) who is not entitled to merit or civil service protection and is generally considered
4433 exempt from a participating employer's merit or career service personnel systems;
- 4434 (ii) whose on-going employment status is entirely at the discretion of the person's
4435 employer; or
- 4436 (iii) who may be terminated without cause by a designated supervisor, manager, or
4437 director.
- 4438 (b) "At-will employee" does not include a career employee who has obtained a
4439 reasonable expectation of continued employment based on inclusion in a
4440 participating employer's merit system, civil service protection system, or career
4441 service personnel systems, policies, or plans.
- 4442 (11) "Beneficiary" means any person entitled to receive a payment under this title through a
4443 relationship with or designated by a member, participant, covered individual, or alternate
4444 payee of a defined contribution plan.
- 4445 (12) "Board" means the Utah State Retirement Board established under Section 49-11-202.
- 4446 (13) "Board member" means a person serving on the Utah State Retirement Board as
4447 established under Section 49-11-202.
- 4448 (14) "Board of Higher Education" or "Utah Board of Higher Education" means the Utah

Board of Higher Education described in Section ~~[53B-1-402]~~ 53H-1-203.

(15) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(16) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(17) "Council member" means a person serving on the Membership Council established under Section 49-11-205.

(18) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(19) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

(a) years of service;

(b) final average monthly salary; or

(c) a retirement multiplier.

(21) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(22) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration

or servicing of educational activities, including:

- (a) the State Board of Education and its instrumentalities;
- (b) any institution of higher education and its branches;
- (c) any school district and its instrumentalities;
- (d) any vocational and technical school; and
- (e) any entity arising out of a consolidation agreement between entities described under this Subsection (22).

(23) "Elected official":

- (a) means a person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office;
- (b) includes a person who is appointed to serve an unexpired term of office described under Subsection (23)(a); and
- (c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(24)(a) "Employer" means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

- (b) "Employer" may also include an agency financed in whole or in part by public funds.

(25) "Exempt employee" means an employee working for a participating employer:

- (a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and
- (b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(26) "Final average monthly salary" means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(27) "Fund" means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(28)(a) "Inactive member" means a member who has not been employed by a participating employer for a period of at least 120 days.

- (b) "Inactive member" does not include retirees.

(29)(a) "Initially entering" means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

- (b) "Initially entering" does not include a person who has any prior service credit on file

4517 with the office.

4518 (c) "Initially entering" includes an employee of a participating employer, except for an
4519 employee that is not eligible under a system or plan under this title, who:

4520 (i) does not have any prior service credit on file with the office;

4521 (ii) is covered by a retirement plan other than a retirement plan created under this
4522 title; and

4523 (iii) moves to a position with a participating employer that is covered by this title.

4524 (30) "Institution of higher education" means an institution described in Section [53B-1-102]
4525 53H-1-102.

4526 (31)(a) "Member" means a person, except a retiree, with contributions on deposit with a
4527 system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah
4528 Governors' and Legislators' Retirement Act, or with a terminated system.

4529 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)
4530 of the Internal Revenue Code, if the employees have contributions on deposit with
4531 the office. If leased employees constitute less than 20% of the participating
4532 employer's work force that is not highly compensated within the meaning of Section
4533 414(n)(5)(c)(ii), Internal Revenue Code, "member" does not include leased
4534 employees covered by a plan described in Section 414(n)(5) of the federal Internal
4535 Revenue Code.

4536 (32) "Member contributions" means the sum of the contributions paid to a system or the
4537 Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed
4538 by a system, and which are made by:

4539 (a) the member; and

4540 (b) the participating employer on the member's behalf under Section 414(h) of the
4541 Internal Revenue Code.

4542 (33) "Nonelective contribution" means an amount contributed by a participating employer
4543 into a participant's defined contribution account.

4544 (34) "Normal cost rate":

4545 (a) means the percent of salary that is necessary for a retirement system that is fully
4546 funded to maintain its fully funded status; and

4547 (b) is determined by the actuary based on the assumed rate of return established by the
4548 board.

4549 (35) "Office" means the Utah State Retirement Office.

4550 (36) "Participant" means an individual with voluntary deferrals or nonelective contributions

on deposit with the defined contribution plans administered under this title.

(37) "Participating employer" means a participating employer, as defined by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

(38) "Part-time appointed board member" means a person:

(a) who is appointed to serve as a member of a board, commission, council, committee, or panel of a participating employer; and

(b) whose service as a part-time appointed board member does not qualify as a regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

(39) "Pension" means monthly payments derived from participating employer contributions.

(40) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

(41)(a) "Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) "Political subdivision" includes special districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) "Political subdivision" does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

(42) "Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

(43) "Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the

organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

(44) "Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

(45) "Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

(46) "Retiree" means an individual who has qualified for an allowance under this title.

(47) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

(48) "Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

(49) "Retirement related contribution":

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

(50) "Service credit" means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

(51) "Surviving spouse" means:

(a) the lawful spouse who has been married to a member for at least six months immediately before the death date of the member; or

(b) a former lawful spouse of a member with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612.

(52) "System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'

Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

(53) "Technical college" means the same as that term is defined in Section [53B-1-101.5] 53H-1-101.

(54) "Tier I" means a system or plan under this title for which:

(a) an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011; or

(b) a governor or legislator who initially enters office before July 1, 2011.

(55)(a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

(56) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

(57) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 65. Section **49-11-623** is amended to read:

49-11-623 (Effective upon governor's approval). Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.

- 4653 (1) As used in this section, "withdrawing entity" means an entity that:
- 4654 (a) participates in a system or plan under this title prior to July 1, 2014;
- 4655 (b) provides mental health and substance abuse services for a county under Section
- 4656 17-50-318;
- 4657 (c) after beginning participation with a system or plan under this title, has modified its
- 4658 federal tax status to a nonprofit organization that qualifies under Section 501(c) of the
- 4659 Internal Revenue Code; and
- 4660 (d) is not [a-state] an institution of higher education as described in Section [53B-2-101]
- 4661 53H-1-102.
- 4662 (2) Notwithstanding any other provision of this title, a withdrawing entity may provide for
- 4663 the participation of its employees with that system or plan as follows:
- 4664 (a) the withdrawing entity shall determine a date that is no later than January 1, 2017, on
- 4665 which the withdrawing entity shall make an election under Subsection (3); and
- 4666 (b) subject to the provisions of Subsection (6), the withdrawing entity shall pay to the
- 4667 office any reasonable actuarial and administrative costs determined by the office to
- 4668 have arisen out of an election made under this section, including an actuarially
- 4669 determined short-fall liability contribution and a contingency payment to provide
- 4670 financial protection to the remaining participating employers.
- 4671 (3) The withdrawing entity described under Subsection (2) may elect to:
- 4672 (a)(i) continue its participation for all current employees of the withdrawing entity,
- 4673 who are covered by a system or plan as of the date set under Subsection (2)(a); and
- 4674 (ii) withdraw from participation in all systems or plans for all persons initially
- 4675 entering employment with the withdrawing entity, beginning on the date set under
- 4676 Subsection (2)(a); or
- 4677 (b) withdraw from participation in all systems or plans for all current and future
- 4678 employees of the withdrawing entity, beginning on the date set under Subsection
- 4679 (2)(a).
- 4680 (4)(a) An election provided under Subsection (3):
- 4681 (i) is a one-time election made no later than the date specified under Subsection (2)(a);
- 4682 (ii) shall be documented by a resolution adopted by the governing body of the
- 4683 withdrawing entity;
- 4684 (iii) is irrevocable; and
- 4685 (iv) applies to the withdrawing entity as the employer and to all employees of the
- 4686 withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(5) If a withdrawing entity elects to continue participation under Subsection (3), the withdrawing entity shall continue to be subject to the laws and the rules governing the system or plan in which an employee participates, including the accrual of service credit and payment of contributions.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(b); and

(b) arrangements for the payment of the costs described under Subsection (2)(b).

(7) The board shall make rules to implement this section.

Section 66. Section **49-20-202** is amended to read:

49-20-202 (Effective upon governor's approval). Establishment of separate risk pools.

(1) The program shall establish separate risk pools for:

(a) state employees; and

(b) the Utah Children's Health Insurance Program.

(2) In accordance with participation standards established by the program, the following entities may elect to participate in the risk pool established under Subsection (1)(a):

(a) in accordance with Subsection (3)(b), an institution of higher education designated under Section ~~[53B-1-102]~~ 53H-1-102 with a total full-time equivalent enrollment of less than 18,000;

(b) an independent entity as defined in Section 63E-1-102; and

(c) a comprehensive regional college.

(3)(a) The program shall create risk pools for other covered employers separate from those created in Subsection (1) as determined by the program.

(b)(i) If an institution of higher education described in Subsection (2)(a) has 1,000 or more plan enrollees, the program shall establish a rate for the institution of higher education based 100% on experience; and

(ii) if the rate established under Subsection (3)(b)(i) is:

(A) less than the risk pool rate established for the state employees' risk pool, the program may include the institution of higher education in the state employees' risk pool described in Subsection (1)(a); or

(B) more than the risk pool rate established for the state employees' risk pool, the program shall create a risk pool for the institution of higher education that is separate from the state employees' risk pool under Subsection (1)(a).

Section 67. Section **51-4-1** is amended to read:

51-4-1 (Effective upon governor's approval). Deposits by state officers, boards, commissions, institutions, departments, divisions, agencies, and similar instrumentalities.

- (1) As used in this section, "agency" means each officer, board, commission, institution, department, division, agency, and other similar instrumentality of the state of Utah.
- (2) Except as provided under Section [53B-7-601] 53H-8-502, or through the receipt of a written variance from the state treasurer, each agency shall deposit daily, if practicable, but no later than once every three banking days, all collections of state money and other public funds with:
 - (a) the state treasurer; or
 - (b) a qualified depository for the credit of the state.
- (3) The state treasurer may make policies governing the reporting and remitting of these funds.

Section 68. Section **51-7-2** is amended to read:

51-7-2 (Effective upon governor's approval) (Partially Repealed 07/01/27). Exemptions from chapter.

- (1) Except as provided in Subsection (2), the following funds are exempt from this chapter:
 - (a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;
 - (b) funds of the Utah State Retirement Board;
 - (c) funds of the Utah Housing Corporation;
 - (d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section [53B-7-802] 53H-8-402;
 - (e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;
 - (f) the State Post-Retirement Benefits Trust Fund;
 - (g) the funds of the Utah Educational Savings Plan;
 - (h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

- 4755 (i) the funds in the Navajo Trust Fund;
- 4756 (j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;
- 4757 (k) the funds in the Employers' Reinsurance Fund;
- 4758 (l) the funds in the Uninsured Employers' Fund;
- 4759 (m) the Utah State Developmental Center Long-Term Sustainability Fund, created in
- 4760 Section 26B-1-331;
- 4761 (n) the funds in the Risk Management Fund created in Section 63A-4-201;
- 4762 (o) the Utah fund of funds created in Section 63N-6-401;
- 4763 (p) the funds deposited into the Utah Homes Investment Program from the
- 4764 Transportation Infrastructure General Fund Support Subfund created in Section
- 4765 72-2-134;
- 4766 (q) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts
- 4767 invested by the state treasurer in precious metals:
- 4768 (i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;
- 4769 (ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;
- 4770 (iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and
- 4771 (iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in
- 4772 Section 63J-1-315;
- 4773 (r) except as provided in Section 11-13-533, the funds of a public agency insurance
- 4774 mutual as that term is defined in Subsection 31A-1-103(7)(a);
- 4775 (s) the State Sovereignty Fund created in Section 51-13-201; and
- 4776 (t) the funds in the Opioid Litigation Proceeds Fund, created in Section 51-9-801.
- 4777 (2) Except for the funds of the Utah State Retirement Board and the Utah Educational
- 4778 Savings Plan, the funds described in Subsection (1) are not exempt from Subsections
- 4779 51-7-14(2) and (3).
- 4780 (3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that
- 4781 administers a fund described in Subsection (1) may hold a closed meeting to discuss the
- 4782 sale or purchase of identifiable securities, investment funds, or investment contracts.
- 4783 (4) A paper, electronic, or other depiction or record of information relating to investment
- 4784 activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2,
- 4785 Government Records Access and Management Act.

4786 Section 69. Section **51-7-3** is amended to read:

4787 **51-7-3 (Effective upon governor's approval). Definitions.**

4788 As used in this chapter:

- 4789 (1) "Agent" means the same as that term is defined in Section 61-1-13.
- 4790 (2) "Certified dealer" means:
- 4791 (a) a primary reporting dealer recognized by the Federal Reserve Bank of New York
- 4792 who is certified by the director as having met the applicable criteria of council rule; or
- 4793 (b) a broker dealer who:
- 4794 (i) has and maintains an office and a resident registered principal in the state;
- 4795 (ii) meets the capital requirements established by council rules;
- 4796 (iii) meets the requirements for good standing established by council rule; and
- 4797 (iv) is certified by the director as meeting quality criteria established by council rule.
- 4798 (3) "Certified investment adviser" means a federal covered adviser, as defined in Section
- 4799 61-1-13, or an investment adviser, as defined in Section 61-1-13, who is certified by the
- 4800 director as having met the applicable criteria of council rule.
- 4801 (4) "Commissioner" means the commissioner of financial institutions.
- 4802 (5) "Council" means the State Money Management Council created by Section 51-7-16.
- 4803 (6) "Covered bond" means a publicly placed debt security issued by a bank, other regulated
- 4804 financial institution, or a subsidiary of either that is secured by a pool of loans that
- 4805 remain on the balance sheet of the issuer or its subsidiary.
- 4806 (7) "Director" means the director of the Utah State Division of Securities of the Department
- 4807 of Commerce.
- 4808 (8)(a) "Endowment funds" means gifts, devises, or bequests of property of any kind
- 4809 donated to a higher education institution from any source.
- 4810 (b) "Endowment funds" does not mean money used for the general operation of a higher
- 4811 education institution that is received by the higher education institution from:
- 4812 (i) state appropriations;
- 4813 (ii) federal contracts;
- 4814 (iii) federal grants;
- 4815 (iv) private research grants; and
- 4816 (v) tuition and fees collected from students.
- 4817 (9) "First tier commercial paper" means commercial paper rated by at least two nationally
- 4818 recognized statistical rating organizations in the highest short-term rating category.
- 4819 (10) "Funds functioning as endowments" means funds, regardless of source, whose corpus
- 4820 is intended to be held in perpetuity by formal institutional designation according to the
- 4821 institution's policy for designating those funds.
- 4822 (11) "GASB" or "Governmental Accounting Standards Board" means the Governmental

- 4823 Accounting Standards Board that is responsible for accounting standards used by public
4824 entities.
- 4825 (12) "Hard put" means an unconditional sell-back provision or a redemption provision
4826 applicable at issue to a note or bond, allowing holders to sell their holdings back to the
4827 issuer or to an equal or higher-rated third party provider at specific intervals and specific
4828 prices determined at the time of issuance.
- 4829 (13) "Higher education institution" means the institutions specified in Section [53B-1-102]
4830 53H-1-102.
- 4831 (14) "Investment adviser representative" means the same as that term is defined in Section
4832 61-1-13.
- 4833 (15)(a) "Investment agreement" means any written agreement that has specifically
4834 negotiated withdrawal or reinvestment provisions and a specifically negotiated
4835 interest rate.
- 4836 (b) "Investment agreement" includes any agreement to supply investments on one or
4837 more future dates.
- 4838 (16) "Local government" means a county, municipality, school district, special district
4839 under Title 17B, Limited Purpose Local Government Entities - Special Districts, special
4840 service district under Title 17D, Chapter 1, Special Service District Act, or any other
4841 political subdivision of the state.
- 4842 (17) "Market value" means market value as defined in the Master Repurchase Agreement.
- 4843 (18) "Master Repurchase Agreement" means the current standard Master Repurchase
4844 Agreement approved by the Public Securities Association or by any successor
4845 organization.
- 4846 (19) "Maximum amount" means, with respect to qualified depositories, the total amount of:
4847 (a) deposits in excess of the federal deposit insurance limit; and
4848 (b) nonqualifying repurchase agreements.
- 4849 (20) "Money market mutual fund" means an open-end managed investment fund:
4850 (a) that complies with the diversification, quality, and maturity requirements of Rule
4851 2a-7 or any successor rule of the Securities and Exchange Commission applicable to
4852 money market mutual funds; and
4853 (b) that assesses no sales load on the purchase of shares and no contingent deferred sales
4854 charge or other similar charges, however designated.
- 4855 (21) "Nationally recognized statistical rating organization" means an organization that has
4856 been designated as a nationally recognized statistical rating organization by the

Securities and Exchange Commission's Division of Market Regulation.

- (22) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a qualified depository arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers that is:
- (a) evidenced by a safekeeping receipt issued by the qualified depository;
 - (b) included in the depository's maximum amount of public funds; and
 - (c) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.
- (23) "Operating funds" means current balances and other funds that are to be disbursed for operation of the state government or any of its boards, commissions, institutions, departments, divisions, agencies, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.
- (24) "Permanent funds" means funds whose principal may not be expended, the earnings from which are to be used for purposes designated by law.
- (25) "Permitted depository" means any out-of-state financial institution that meets quality criteria established by rule of the council.
- (26) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.
- (27)(a) "Public money" means "public funds."
- (b) "Public money," as used in Article VII, Sec. 15, Utah Constitution, means the same as "state funds."
- (28) "Public treasurer" includes the state treasurer and the official of any state board, commission, institution, department, division, agency, or other similar instrumentality, or of any county, city, school district, charter school, political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds.
- (29) "Public Treasurers' Investment Fund" means the public fund created for any public funds transferred by a public treasurer to the state treasurer in accordance with Section 51-7-5.
- (30) "Qualified depository" means a Utah depository institution or an out-of-state depository institution, as those terms are defined in Section 7-1-103, that is authorized to

conduct business in this state under Section 7-1-702 or Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, whose deposits are insured by an agency of the federal government and that has been certified by the commissioner of financial institutions as having met the requirements established under this chapter and the rules of the council to be eligible to receive deposits of public funds.

(31) "Qualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a financial institution or government securities dealer acting as principal arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers only if purchased securities are:

(a) delivered to the public treasurer's safekeeping agent or custodian as contemplated by Section 7 of the Master Repurchase Agreement; and

(b) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(32) "Reciprocal deposits" means deposits that are initially deposited into a qualified depository and are then redeposited through a deposit account registry service:

(a) in one or more FDIC-insured depository institutions in amounts up to the relevant FDIC-insured deposit limit for a depositor in each depository institution; and

(b) in exchange for reciprocal FDIC-insured deposits made through the deposit account registry service to the qualified depository.

(33) "Securities division" means Utah's Division of Securities created within the Department of Commerce by Section 13-1-2.

(34) "State funds" means:

(a) public money raised by operation of law for the support and operation of the state government; and

(b) all other money, funds, and accounts, regardless of the source from which the money, funds, or accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities.

Section 70. Section **51-7-11** is amended to read:

51-7-11 (Effective upon governor's approval). Authorized deposits or investments of public funds.

(1)(a) Except as provided in Subsections (1)(b) through (1)(d), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

- (b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.
- (c) A public treasurer may make a deposit in accordance with Section ~~[53B-7-601]~~ 53H-8-502 in a foreign depository institution as defined in Section 7-1-103.
- (d) The state treasurer is exempt from the requirement to conduct investment transactions through a certified dealer under Subsection (1)(a).
- (2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested.
- (3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section 51-7-17:
- (a) negotiable or nonnegotiable deposits of qualified depositories;
 - (b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:
 - (i) Government National Mortgage Association mortgage pools;
 - (ii) Federal Home Loan Mortgage Corporation mortgage pools;
 - (iii) Federal National Mortgage Corporation mortgage pools;
 - (iv) Small Business Administration loan pools;
 - (v) Federal Agriculture Mortgage Corporation pools; or
 - (vi) other investments authorized by this section;
 - (c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:
 - (i) Government National Mortgage Association mortgage pools;
 - (ii) Federal Home Loan Mortgage Corporation mortgage pools;
 - (iii) Federal National Mortgage Corporation mortgage pools;
 - (iv) Small Business Administration loan pools; or
 - (v) other investments authorized by this section;
 - (d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, which has a remaining term to maturity of:
 - (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or
 - (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);
 - (e) bankers' acceptances that:
 - (i) are eligible for discount at a Federal Reserve bank; and
 - (ii) have a remaining term to maturity of 270 days or fewer;
 - (f) fixed rate negotiable deposits issued by a permitted depository that have a remaining

- 4959 term to maturity of 365 days or fewer;
- 4960 (g) obligations of the United States Treasury, including United States Treasury bills,
- 4961 United States Treasury notes, and United States Treasury bonds that, unless the funds
- 4962 invested are pledged or otherwise deposited in an irrevocable trust escrow account,
- 4963 have a remaining term to final maturity of:
- 4964 (i) five years or less;
- 4965 (ii) if the funds are invested by an institution of higher education as defined in
- 4966 Section ~~[53B-3-102]~~ 53H-1-101, a city of the first class, or a county of the first
- 4967 class, 10 years or less; or
- 4968 (iii) if the funds are invested by a reserve fund, as defined in Subsection
- 4969 31A-1-103(7)(a), 20 years or less;
- 4970 (h) obligations other than mortgage pools and other mortgage derivative products that:
- 4971 (i) are issued by, or fully guaranteed as to principal and interest by, the following
- 4972 agencies or instrumentalities of the United States in which a market is made by a
- 4973 primary reporting government securities dealer, unless the agency or
- 4974 instrumentality has become private and is no longer considered to be a
- 4975 government entity:
- 4976 (A) Federal Farm Credit banks;
- 4977 (B) Federal Home Loan banks;
- 4978 (C) Federal National Mortgage Association;
- 4979 (D) Federal Home Loan Mortgage Corporation;
- 4980 (E) Federal Agriculture Mortgage Corporation; and
- 4981 (F) Tennessee Valley Authority; and
- 4982 (ii) unless the funds invested are pledged or otherwise deposited in an irrevocable
- 4983 trust escrow account, have a remaining term to final maturity of:
- 4984 (A) five years or less;
- 4985 (B) if the funds are invested by an institution of higher education as defined in
- 4986 Section ~~[53B-3-102]~~ 53H-1-101, a city of the first class, or a county of the first
- 4987 class, 10 years or less; or
- 4988 (C) if the funds are invested by a reserve fund, as defined in Subsection
- 4989 31A-1-103(7)(a), 20 years or less;
- 4990 (i) fixed rate corporate obligations that:
- 4991 (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally
- 4992 recognized statistical rating organizations;

- 4993 (ii) are senior unsecured or secured obligations of the issuer, excluding covered
4994 bonds;
4995 (iii) are publicly traded; and
4996 (iv) have a remaining term to final maturity of 15 months or less or are subject to a
4997 hard put at par value or better, within 365 days;
- 4998 (j) tax anticipation notes and general obligation bonds of the state or a county,
4999 incorporated city or town, school district, or other political subdivision of the state,
5000 including bonds offered on a when-issued basis without regard to the limitations
5001 described in Subsection (7) that, unless the funds invested are pledged or otherwise
5002 deposited in an irrevocable trust escrow account, have a remaining term to final
5003 maturity of:
5004 (i) five years or less;
5005 (ii) if the funds are invested by an institution of higher education as defined in
5006 Section ~~[53B-3-102]~~ 53H-1-101, a city of the first class, or a county of the first
5007 class, 10 years or less; or
5008 (iii) if the funds are invested by a reserve fund, as defined in Subsection
5009 31A-1-103(7)(a), 20 years or less;
- 5010 (k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or
5011 town, school district, or other political subdivision of the state that are payable from
5012 assessments or from revenues or earnings specifically pledged for payment of the
5013 principal and interest on these obligations, including bonds offered on a when-issued
5014 basis without regard to the limitations described in Subsection (7) that, unless the
5015 funds invested are pledged or otherwise deposited in an irrevocable trust escrow
5016 account, have a remaining term to final maturity of:
5017 (i) five years or less;
5018 (ii) if the funds are invested by an institution of higher education as defined in
5019 Section ~~[53B-3-102]~~ 53H-1-101, a city of the first class, or a county of the first
5020 class, 10 years or less; or
5021 (iii) if the funds are invested by a reserve fund, as defined in Subsection
5022 31A-1-103(7)(a), 20 years or less;
- 5023 (l) shares or certificates in a money market mutual fund;
- 5024 (m) variable rate negotiable deposits that:
5025 (i) are issued by a qualified depository or a permitted depository;
5026 (ii) are repriced at least semiannually; and

- 5027 (iii) have a remaining term to final maturity not to exceed three years;
5028 (n) variable rate securities that:
5029 (i)(A) are rated "A" or higher or the equivalent of "A" or higher by two nationally
5030 recognized statistical rating organizations;
5031 (B) are senior unsecured or secured obligations of the issuer, excluding covered
5032 bonds;
5033 (C) are publicly traded;
5034 (D) are repriced at least semiannually; and
5035 (E) have a remaining term to final maturity not to exceed three years or are subject
5036 to a hard put at par value or better, within 365 days;
5037 (ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a
5038 security making unscheduled periodic principal payments other than optional
5039 redemptions;
5040 (o) reciprocal deposits made in accordance with Subsection 51-7-17(4); and
5041 (p) negotiable brokered certificates of deposit made in accordance with Subsection
5042 51-7-17(4).
5043 (4) The following public funds are exempt from the requirements of Subsection (3):
5044 (a) a local government other post-employment benefits trust fund under Section
5045 51-7-12.2; and
5046 (b) a nonnegotiable deposit made in accordance with Section [~~53B-7-601~~] 53H-8-502 in
5047 a foreign depository institution as defined in Section 7-1-103.
5048 (5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable
5049 large time deposits issued in amounts of \$100,000 or more, the interest shall be
5050 calculated on the basis of the actual number of days divided by 360 days.
5051 (6) A public treasurer may maintain fully insured deposits in demand accounts in a
5052 federally insured nonqualified depository only if a qualified depository is not reasonably
5053 convenient to the entity's geographic location.
5054 (7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure
5055 that all purchases and sales of securities are settled within:
5056 (a) 15 days of the trade date for outstanding issues; and
5057 (b) 30 days for new issues.

5058 Section 71. Section **51-7-17** is amended to read:

5059 **51-7-17 (Effective upon governor's approval). Criteria for investments.**

- 5060 (1) As used in this section:

(a) "Affiliate" means, in relation to a provider:

(i) an entity controlled, directly or indirectly, by the provider;

(ii) an entity that controls, directly or indirectly, the provider; or

(iii) an entity directly or indirectly under common control with the provider.

(b) "Control" means ownership of a majority of the voting power of the entity or provider.

(2)(a) A public treasurer shall consider and meet the following objectives when depositing and investing public funds:

(i) safety of principal;

(ii) protection of principal during periods of financial market volatility;

(iii) need for liquidity;

(iv) yield on investments;

(v) recognition of the different investment objectives of operating and permanent funds; and

(vi) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds.

(b) A public treasurer shall invest the proceeds of general obligation bond issues, tax anticipation note issues, and funds pledged or otherwise dedicated to the payment of interest and principal of general obligation bonds and tax anticipation notes issued by the state or a political subdivision of the state in accordance with:

(i) Section 51-7-11; or

(ii) the terms of the borrowing instrument applicable to those issues and funds, if those terms are more restrictive than Section 51-7-11.

(c) A public treasurer shall invest the proceeds of bonds other than general obligation bonds and the proceeds of notes other than tax anticipation notes issued by the state or a political subdivision of the state, and all funds pledged or otherwise dedicated to the payment of interest and principal of those notes and bonds:

(i) in accordance with the terms of the borrowing instruments applicable to those bonds or notes; or

(ii) if none of those provisions are applicable, in accordance with Section 51-7-11.

(d) A public treasurer may invest proceeds of bonds, notes, or other money pledged or otherwise dedicated to the payment of debt service on the bonds or notes in investment agreements if:

(i) the investment is permitted by the terms of the borrowing instrument applicable to

- 5095 those bonds or notes or the borrowing instrument authorizes the investment as an
5096 investment permitted by the State Money Management Act;
- 5097 (ii) either the provider of the investment agreement or an entity fully,
5098 unconditionally, and irrevocably guaranteeing the provider's obligations under the
5099 investment agreement has received a rating of:
- 5100 (A) at least "AA-" from S&P or "Aa3" from Moody's for investment agreements
5101 having a term of more than one year; or
- 5102 (B) at least "A-1+" from S&P or "P-1" from Moody's for investment agreements
5103 having a term of one year or less;
- 5104 (iii) the investment agreement contains provisions approved by the public treasurer
5105 that provide that, in the event of a rating downgrade of the provider or its affiliate
5106 guarantor, as applicable, by either S&P or Moody's below the "A" category or its
5107 equivalent, or a rating downgrade of a nonaffiliate guarantor by either S&P or
5108 Moody's below the "AA" category or its equivalent, the provider must, within 30
5109 days after receipt of notice of the downgrade:
- 5110 (A) collateralize the investment agreement with direct obligations of, or
5111 obligations guaranteed by, the United States of America having a market value
5112 at least equal to 105% of the amount of the money invested, valued at least
5113 quarterly, and deposit the collateral with a third-party custodian or trustee
5114 selected by the public treasurer; or
- 5115 (B) terminate the agreement without penalty and repay all of the principal invested
5116 and the interest accrued on the investment to the date of termination; and
- 5117 (iv) the public treasurer receives an enforceability opinion from the legal counsel of
5118 the investment agreement provider and, if there is a guarantee, an enforceability
5119 opinion from the legal counsel of the guarantor with respect to the guarantee.
- 5120 (3)(a) As used in this Subsection (3), "interest rate contract" means interest rate
5121 exchange contracts, interest rate floor contracts, interest rate ceiling contracts, or
5122 other similar contracts authorized by resolution of the governing board or issuing
5123 authority, as applicable.
- 5124 (b) A public treasurer may, with the approval of the state treasurer:
- 5125 (i) enter into interest rate contracts that the governing board or issuing authority
5126 determines are necessary, convenient, or appropriate for the control or
5127 management of debt or for the cost of servicing debt; and
- 5128 (ii) use its public funds to satisfy its payment obligations under those contracts.

- (c) Those contracts:
- (i) shall comply with the requirements established by council rules; and
 - (ii) may contain payment, security, default, termination, remedy, and other terms and conditions that the governing board or issuing authority considers appropriate.
- (d) Neither interest rate contracts nor public funds used in connection with these interest rate contracts may be considered a deposit or investment.
- (4) A public treasurer shall ensure that all public funds invested in deposit instruments are invested with qualified depositories within Utah, except:
- (a) for deposits made in accordance with Section ~~[53B-7-604]~~ 53H-8-502 in a foreign depository institution as defined in Section 7-1-103;
 - (b) reciprocal deposits, subject to rules made by the council under Subsection 51-7-18(2);
 - (c) negotiable brokered certificates of deposit, subject to rules made by the council under Subsection 51-7-18(2); or
 - (d) if national market rates on instruments of similar quality and term exceed those offered by qualified depositories, investments in out-of-state deposit instruments may be made only with institutions that meet quality criteria set forth by the rules of the council.

Section 72. Section **51-8-102** is amended to read:

51-8-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

- (1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of governmental purposes, and any other purpose the achievement of which is beneficial to the community.
- (2)(a) "Endowment fund" means an institutional fund, or any part of an institutional fund, not wholly expendable by the institution on a current basis under the terms of a gift instrument.
- (b) "Endowment fund" does not include assets of an institution designated by the institution as an endowment fund for its own use.
- (3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.
- (4)(a) "Governing board" means the body responsible for the management of an institution or of an institutional fund.
- (b) "Governing board" means, for a higher education institution, the board of trustees of

5163 the higher education institution.

5164 (5) "Higher education institution" means the institutions specified in Section [53B-1-102]
5165 53H-1-102.

5166 (6) "Institution" means:

5167 (a) a person, other than an individual, organized and operated exclusively for charitable
5168 purposes;

5169 (b) a government or a governmental subdivision, agency, or instrumentality to the extent
5170 that it holds funds exclusively for a charitable purpose; and

5171 (c) a trust that had both charitable and noncharitable interests, after all noncharitable
5172 interests have terminated.

5173 (7)(a) "Institutional fund" means a fund held by an institution exclusively for charitable
5174 purposes.

5175 (b) "Institutional fund" does not include:

5176 (i) program-related assets;

5177 (ii) a fund held for an institution by a trustee that is not an institution;

5178 (iii) a fund in which a beneficiary that is not an institution has an interest, other than
5179 an interest that could arise upon violation or failure of the purposes of the fund; or

5180 (iv) operating funds.

5181 (8) "Manager" means either:

5182 (a) the state treasurer; or

5183 (b) a higher education institution that accepts the responsibility for the management of
5184 institutional funds of a different higher education institution.

5185 (9) "Operating funds" means money used for the general operation of a higher education
5186 institution that is received by the higher education institution from:

5187 (a) state appropriations;

5188 (b) government contracts;

5189 (c) government grants; or

5190 (d) tuition and fees collected from students.

5191 (10) "Person" means an individual, corporation, business trust, estate, trust, partnership,
5192 limited liability company, association, joint venture, public corporation, government or
5193 governmental subdivision, agency, instrumentality, or any other legal or commercial
5194 entity.

5195 (11) "Program-related asset" means an asset held by an institution primarily to accomplish a
5196 charitable purpose of the institution and not primarily for appreciation or the production

5197 of income.

5198 (12) "Record" means information that is inscribed on a tangible medium or that is stored in
5199 an electronic or other medium and is retrievable in perceivable form.

5200 Section 73. Section **52-4-103** is amended to read:

5201 **52-4-103 (Effective upon governor's approval). Definitions.**

5202 As used in this chapter:

5203 (1) "Anchor location" means:

5204 (a) the physical location where the public body conducting an electronic meeting under
5205 Section 52-4-207 normally conducts meetings of the public body; or

5206 (b) a location other than the location described in Subsection (1)(a) that is reasonably as
5207 accessible to the public as the location described in Subsection (1)(a).

5208 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300
5209 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt
5210 Lake City.

5211 (3) "Electronic meeting" means a meeting that some or all public body members attend
5212 through an electronic video, audio, or both video and audio connection, as provided in
5213 Section 52-4-207.

5214 (4) "Fiduciary or commercial information" means information:

5215 (a) related to any subject if disclosure:

5216 (i) would conflict with a fiduciary obligation; or

5217 (ii) is prohibited by insider trading provisions; or

5218 (b) that is commercial in nature including:

5219 (i) account owners or borrowers;

5220 (ii) demographic data;

5221 (iii) contracts and related payments;

5222 (iv) negotiations;

5223 (v) proposals or bids;

5224 (vi) investments;

5225 (vii) management of funds;

5226 (viii) fees and charges;

5227 (ix) plan and program design;

5228 (x) investment options and underlying investments offered to account owners;

5229 (xi) marketing and outreach efforts;

5230 (xii) financial plans; or

- 5231 (xiii) reviews and audits.
- 5232 (5) "Meeting" means a gathering:
- 5233 (a) of a public body or specified body;
- 5234 (b) with a quorum present; and
- 5235 (c) that is convened:
- 5236 (i) by an individual:
- 5237 (A) with authority to convene the public body or specified body; and
- 5238 (B) following the process provided by law for convening the public body or
- 5239 specified body; and
- 5240 (ii) for the express purpose of acting as a public body or specified body to:
- 5241 (A) receive public comment about a relevant matter;
- 5242 (B) deliberate about a relevant matter; or
- 5243 (C) take action upon a relevant matter.
- 5244 (6) "Participate" means the ability to communicate with all of the members of a public
- 5245 body, either verbally or electronically, so that each member of the public body can hear
- 5246 or observe the communication.
- 5247 (7)(a) "Public body" means:
- 5248 (i) any administrative, advisory, executive, or legislative body of the state or its
- 5249 political subdivisions that:
- 5250 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
- 5251 (B) consists of two or more individuals;
- 5252 (C) expends, disburses, or is supported in whole or in part by tax revenue; and
- 5253 (D) is vested with the authority to make decisions regarding the public's business;
- 5254 or
- 5255 (ii) any administrative, advisory, executive, or policymaking body of an association,
- 5256 as that term is defined in Section 53G-7-1101, that:
- 5257 (A) consists of two or more individuals;
- 5258 (B) expends, disburses, or is supported in whole or in part by dues paid by a
- 5259 public school or whose employees participate in a benefit or program described
- 5260 in Title 49, Utah State Retirement and Insurance Benefit Act; and
- 5261 (C) is vested with authority to make decisions regarding the participation of a
- 5262 public school or student in an interscholastic activity, as that term is defined in
- 5263 Section 53G-7-1101.
- 5264 (b) "Public body" includes:

- 5265 (i) an interlocal entity or joint or cooperative undertaking, as those terms are defined
5266 in Section 11-13-103, except for the Water District Water Development Council
5267 created pursuant to Section 11-13-228;
- 5268 (ii) a governmental nonprofit corporation as that term is defined in Section
5269 11-13a-102;
- 5270 (iii) the Utah Independent Redistricting Commission; and
- 5271 (iv) a project entity, as that term is defined in Section 11-13-103.
- 5272 (c) "Public body" does not include:
- 5273 (i) a political party, a political group, or a political caucus;
- 5274 (ii) a conference committee, a rules committee, a sifting committee, or an
5275 administrative staff committee of the Legislature;
- 5276 (iii) a school community council or charter trust land council, as that term is defined
5277 in Section 53G-7-1203;
- 5278 (iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed
5279 interlocal entity is not a project entity;
- 5280 (v) the following Legislative Management subcommittees, which are established in
5281 Section 36-12-8, when meeting for the purpose of selecting or evaluating a
5282 candidate to recommend for employment, except that the meeting in which a
5283 subcommittee votes to recommend that a candidate be employed shall be subject
5284 to the provisions of this act:
- 5285 (A) the Research and General Counsel Subcommittee;
- 5286 (B) the Budget Subcommittee; and
- 5287 (C) the Audit Subcommittee; or
- 5288 (vi) a search committee that selects finalists for a position as an institution of higher
5289 education president under Section [53B-2-102] 53H-3-302.
- 5290 (8) "Public statement" means a statement made in the ordinary course of business of the
5291 public body with the intent that all other members of the public body receive it.
- 5292 (9) "Quorum" means a simple majority of the membership of a public body, unless
5293 otherwise defined by applicable law.
- 5294 (10) "Recording" means an audio, or an audio and video, record of the proceedings of a
5295 meeting that can be used to review the proceedings of the meeting.
- 5296 (11)(a) "Relevant matter" means a matter that is within the scope of the authority of a
5297 public body or specified body.
- 5298 (b) "Relevant matter" does not include, for a public body with both executive and

5299 legislative responsibilities, a managerial or operational matter.

5300 (12) "Specified body":

5301 (a) means an administrative, advisory, executive, or legislative body that:

5302 (i) is not a public body;

5303 (ii) consists of three or more members; and

5304 (iii) includes at least one member who is:

5305 (A) a legislator; and

5306 (B) officially appointed to the body by the president of the Senate, speaker of the
5307 House of Representatives, or governor; and

5308 (b) does not include a body listed in Subsection (7)(c)(ii) or (7)(c)(v).

5309 Section 74. Section **53-1-102** is amended to read:

5310 **53-1-102 (Effective upon governor's approval). Definitions.**

5311 (1) As used in this title:

5312 (a) "Capitol hill complex" means capitol hill, as defined in Section 63O-1-101.

5313 (b) "Commissioner" means the commissioner of public safety appointed under Section
5314 53-1-107.

5315 (c) "Department" means the Department of Public Safety created in Section 53-1-103.

5316 (d) "Governor-elect" means an individual whom the board of canvassers determines to
5317 be the successful candidate for governor after a general election for the office of
5318 governor.

5319 (e) "Institution of higher education" means the same as that term is defined in Section
5320 53H-1-101.

5321 ~~[(e)]~~ (f) "Law enforcement agency" means an entity or division of:

5322 (i)(A) the federal government, a state, or a political subdivision of a state;

5323 (B) ~~[a state]~~ an institution of higher education; or

5324 (C) a private institution of higher education, if the entity or division is certified by
5325 the commissioner under Title 53, Chapter 19, Certification of Private Law
5326 Enforcement Agency; and

5327 (ii) that exists primarily to prevent and detect crime and enforce criminal laws,
5328 statutes, and ordinances.

5329 ~~[(f)]~~ (g) "Law enforcement officer" means the same as that term is defined in Section
5330 53-13-103.

5331 ~~[(g)]~~ (h) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled
5332 by electric power obtained from overhead trolley wires, but not operated upon rails,

- 5333 except motorized wheel chairs and vehicles moved solely by human power.
- 5334 ~~[(h)]~~ (i) "Peace officer" means any officer certified in accordance with Title 53, Chapter
- 5335 13, Peace Officer Classifications.
- 5336 ~~[(i)]~~ (j) "Public official" means the same as that term is defined in Section 36-11-102.
- 5337 ~~[(j)] "State institution of higher education" means the same as that term is defined in~~
- 5338 ~~Section 53B-3-102.]~~
- 5339 (k) "Vehicle" means every device in, upon, or by which any person or property is or may
- 5340 be transported or drawn upon a highway, excepting devices used exclusively upon
- 5341 stationary rails or tracks.
- 5342 (2) The definitions provided in Subsection (1) are to be applied throughout this title in
- 5343 addition to definitions that are applicable to specific chapters or parts.
- 5344 Section 75. Section **53-3-207** is amended to read:
- 5345 **53-3-207 (Effective upon governor's approval). License certificates or driving**
- 5346 **privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of**
- 5347 **anatomical gift information -- Temporary licenses or driving privilege cards -- Minors'**
- 5348 **licenses, cards, and permits -- Violation.**
- 5349 (1) As used in this section:
- 5350 (a) "Authorized guardian" means:
- 5351 (i) the parent or legal guardian of a child who:
- 5352 (A) is under 18 years old; and
- 5353 (B) has an invisible condition; or
- 5354 (ii) the legal guardian or conservator of an adult who:
- 5355 (A) is 18 years old or older; and
- 5356 (B) has an invisible condition.
- 5357 (b) "Driving privilege" means the privilege granted under this chapter to drive a motor
- 5358 vehicle.
- 5359 (c) "First responder" means:
- 5360 (i) a law enforcement officer, as defined in Section 53-13-103;
- 5361 (ii) an emergency medical technician, as defined in Section 53-2e-101;
- 5362 (iii) an advanced emergency medical technician, as defined in Section 53-2e-101;
- 5363 (iv) a paramedic, as defined in Section 53-2e-101;
- 5364 (v) a firefighter, as defined in Section ~~[53B-8e-102]~~ 53H-11-306; or
- 5365 (vi) a dispatcher, as defined in Section 53-6-102.
- 5366 (d) "Governmental entity" means the state or a political subdivision of the state.

- 5367 (e) "Health care professional" means:
- 5368 (i) a licensed physician, physician assistant, nurse practitioner, or mental health
- 5369 therapist; or
- 5370 (ii) any other licensed health care professional the division designates by rule made in
- 5371 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 5372 (f) "Invisible condition" means a physical or mental condition that may interfere with an
- 5373 individual's ability to communicate with a first responder, including:
- 5374 (i) a communication impediment;
- 5375 (ii) hearing loss;
- 5376 (iii) blindness or a visual impairment;
- 5377 (iv) autism spectrum disorder;
- 5378 (v) a drug allergy;
- 5379 (vi) Alzheimer's disease or dementia;
- 5380 (vii) post-traumatic stress disorder;
- 5381 (viii) traumatic brain injury;
- 5382 (ix) schizophrenia;
- 5383 (x) epilepsy;
- 5384 (xi) a developmental disability;
- 5385 (xii) Down syndrome;
- 5386 (xiii) diabetes;
- 5387 (xiv) a heart condition; or
- 5388 (xv) any other condition approved by the department.
- 5389 (g) "Invisible condition identification symbol" means a symbol or alphanumeric code
- 5390 that indicates that an individual is an individual with an invisible condition.
- 5391 (h) "Political subdivision" means any county, city, town, school district, public transit
- 5392 district, community reinvestment agency, special improvement or taxing district,
- 5393 special district, special service district, an entity created by an interlocal agreement
- 5394 adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other
- 5395 governmental subdivision or public corporation.
- 5396 (i) "State" means this state, and includes any office, department, agency, authority,
- 5397 commission, board, institution, hospital, college, university, children's justice center,
- 5398 or other instrumentality of the state.
- 5399 (2)(a) The division shall issue to every individual privileged to drive a motor vehicle, a
- 5400 regular license certificate, a limited-term license certificate, or a driving privilege

card indicating the type or class of motor vehicle the individual may drive.

(b) An individual may not drive a class of motor vehicle unless granted the privilege in that class.

(3)(a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the individual;

(vi) a photograph or other facsimile of the individual's signature;

(vii) an indication whether the individual intends to make an anatomical gift under

Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, unless the

driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the individual states that the

individual is a veteran of the United States military on the application for a driver

license in accordance with Section 53-3-205 and provides verification that the

individual was granted an honorable or general discharge from the United States

Armed Forces, an indication that the individual is a United States military veteran

for a regular license certificate or limited-term license certificate issued on or after

July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to an individual younger than 21 years old on a portrait-style format as required in Subsection (7)(b) is not required to include an indication that the individual is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the individual's social security number.

(d)(i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) The size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card

5435 under Subsection 53-3-220(4).

5436 (4)(a) The division shall include or affix an invisible condition identification symbol on
5437 an individual's regular license certificate, limited-term license certificate, or driving
5438 privilege card if the individual or the individual's authorized guardian, on a form
5439 prescribed by the department:

5440 (i) requests the division to include the invisible condition identification symbol;

5441 (ii) provides written verification from a health care professional that the individual is
5442 an individual with an invisible condition; and

5443 (iii) signs a waiver of liability for the release of any medical information to:

5444 (A) the department;

5445 (B) any person who has access to the individual's medical information as recorded
5446 on the individual's driving record or the Utah Criminal Justice Information
5447 System under this chapter;

5448 (C) any other person who may view or receive notice of the individual's medical
5449 information by seeing the individual's regular license certificate, limited-term
5450 license certificate, or driving privilege card or the individual's information in
5451 the Utah Criminal Justice Information System;

5452 (D) a local law enforcement agency that receives a copy of the form described in
5453 this Subsection (4)(a) and enters the contents of the form into the local law
5454 enforcement agency's record management system or computer-aided dispatch
5455 system; and

5456 (E) a dispatcher who accesses the information regarding the individual's invisible
5457 condition through the use of a local law enforcement agency's record
5458 management system or computer-aided dispatch system.

5459 (b) As part of the form described in Subsection (4)(a), the department shall advise the
5460 individual or the individual's authorized guardian that by submitting the signed
5461 waiver, the individual or the individual's authorized guardian consents to the release
5462 of the individual's medical information to any person described in Subsections
5463 (4)(a)(iii)(A) through (E), even if the person is otherwise ineligible to access the
5464 individual's medical information under state or federal law.

5465 (c) The division may not:

5466 (i) charge a fee to include the invisible condition identification symbol on the
5467 individual's regular license certificate, limited-term license certificate, or driving
5468 privilege card; or

- 5469 (ii) after including the invisible condition identification symbol on the individual's
5470 previously issued regular license certificate, limited-term license certificate, or
5471 driving privilege card, require the individual to provide subsequent written
5472 verification described in Subsection (4)(a)(ii) to include the invisible condition
5473 identification symbol on the individual's renewed or extended regular license
5474 certificate, limited-term license certificate, or driving privilege card.
- 5475 (d) The division shall confirm with the Division of Professional Licensing that the health
5476 care professional described in Subsection (4)(a)(ii) holds a current state license.
- 5477 (e) The inclusion of an invisible condition identification symbol on an individual's
5478 license certificate, limited-term license certificate, or driving privilege card in
5479 accordance with Subsection (4)(a) does not confer any legal rights or privileges on
5480 the individual, including parking privileges for individuals with disabilities under
5481 Section 41-1a-414.
- 5482 (f) For each individual issued a regular license certificate, limited-term license
5483 certificate, or driving privilege card under this section that includes an invisible
5484 condition identification symbol, the division shall include in the division's database a
5485 brief description of the nature of the individual's invisible condition in the
5486 individual's record and provide the brief description to the Utah Criminal Justice
5487 Information System.
- 5488 (g) Except as provided in this section, the division may not release the information
5489 described in Subsection (4)(f).
- 5490 (h) Within 30 days after the day on which the division receives an individual's or the
5491 individual's authorized guardian's written request, the division shall:
- 5492 (i) remove from the individual's record in the division's database the invisible
5493 condition identification symbol and the brief description described in Subsection
5494 (4)(f); and
- 5495 (ii) provide the individual's updated record to the Utah Criminal Justice Information
5496 System.
- 5497 (5) As provided in Section 63G-2-302, the information described in Subsection (4)(a) is a
5498 private record for purposes of Title 63G, Chapter 2, Government Records Access and
5499 Management Act.
- 5500 (6)(a)(i) The division, upon determining after an examination that an applicant is
5501 mentally and physically qualified to be granted a driving privilege, may issue to
5502 an applicant a receipt for the fee if the applicant is eligible for a regular license

5503 certificate or limited-term license certificate.

5504 (ii)(A) The division shall issue a temporary regular license certificate or
5505 temporary limited-term license certificate allowing the individual to drive a
5506 motor vehicle while the division is completing the division's investigation to
5507 determine whether the individual is entitled to be granted a driving privilege.

5508 (B) A temporary regular license certificate or a temporary limited-term license
5509 certificate issued under this Subsection (6) shall be recognized and have the
5510 same rights and privileges as a regular license certificate or a limited-term
5511 license certificate.

5512 (b) The temporary regular license certificate or temporary limited-term license
5513 certificate shall be in the individual's immediate possession while driving a motor
5514 vehicle, and the temporary regular license certificate or temporary limited-term
5515 license certificate is invalid when the individual's regular license certificate or
5516 limited-term license certificate has been issued or when, for good cause, the privilege
5517 has been refused.

5518 (c) The division shall indicate on the temporary regular license certificate or temporary
5519 limited-term license certificate a date after which the temporary regular license
5520 certificate or temporary limited-term license certificate is not valid as a temporary
5521 license.

5522 (d)(i) Except as provided in Subsection (6)(d)(ii), the division may not issue a
5523 temporary driving privilege card or other temporary permit to an applicant for a
5524 driving privilege card.

5525 (ii) The division may issue a learner permit issued in accordance with Section
5526 53-3-210.5 to an applicant for a driving privilege card.

5527 (7)(a) The division shall distinguish learner permits, temporary permits, regular license
5528 certificates, limited-term license certificates, and driving privilege cards issued to any
5529 individual younger than 21 years old by use of plainly printed information or the use
5530 of a color or other means not used for other regular license certificates, limited-term
5531 license certificates, or driving privilege cards.

5532 (b) The division shall distinguish a regular license certificate, limited-term license
5533 certificate, or driving privilege card issued to an individual younger than 21 years old
5534 by use of a portrait-style format not used for other regular license certificates,
5535 limited-term license certificates, or driving privilege cards and by plainly printing the
5536 date the regular license certificate, limited-term license certificate, or driving

- 5537 privilege card holder is 21 years old.
- 5538 (8) The division shall distinguish a limited-term license certificate by clearly indicating on
5539 the document:
- 5540 (a) that the limited-term license certificate is temporary; and
5541 (b) the limited-term license certificate's expiration date.
- 5542 (9)(a) The division shall only issue a driving privilege card to an individual whose
5543 privilege was obtained without providing evidence of lawful presence in the United
5544 States as required under Subsection 53-3-205(8).
- 5545 (b) The division shall distinguish a driving privilege card from a license certificate by:
5546 (i) use of a format, color, font, or other means; and
5547 (ii) clearly displaying on the front of the driving privilege card a phrase substantially
5548 similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR
5549 IDENTIFICATION".
- 5550 (10) The provisions of Subsection (7)(b) do not apply to a learner permit, temporary permit,
5551 temporary regular license certificate, temporary limited-term license certificate, or any
5552 other temporary permit.
- 5553 (11) The division shall issue temporary license certificates of the same nature, except as to
5554 duration, as the license certificates that they temporarily replace, as are necessary to
5555 implement applicable provisions of this section and Section 53-3-223.
- 5556 (12)(a) A governmental entity may not accept a driving privilege card as proof of
5557 personal identification.
- 5558 (b) A driving privilege card may not be used as a document providing proof of an
5559 individual's age for any government required purpose.
- 5560 (13) An individual who violates Subsection (2)(b) is guilty of an infraction.
- 5561 (14) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees,
5562 restrictions, and sanctions under this code apply to a:
- 5563 (a) driving privilege in the same way as a license or limited-term license issued under
5564 this chapter; and
5565 (b) limited-term license certificate or driving privilege card in the same way as a regular
5566 license certificate issued under this chapter.
- 5567 Section 76. Section **53-6-209** is amended to read:
- 5568 **53-6-209 (Effective upon governor's approval). Termination of employment --**
5569 **Change of status form.**
- 5570 (1) When a peace officer's employment terminates, the employing agency shall submit a

change of status form noting the termination of the peace officer to the division.

(2) The change of status form shall:

(a) be completed and submitted within 30 days after the day on which the peace officer's employment terminates;

(b) identify the circumstances of the peace officer's status change by indicating that the peace officer has resigned, retired, terminated, transferred, is deceased, or that the peace officer's name has changed;

(c) indicate the effective date of action; and

(d) indicate the name of the new employer, if the status change is due to a transfer.

(3) If a peace officer's employment terminates during an open internal investigation regarding that peace officer and involving an alleged violation of Subsection 53-6-211(1), the employing agency shall:

(a) notify the division of the investigation in accordance with Subsection 53-6-211(6)

within 30 days after the day on which the peace officer's employment terminates; and

(b) provide a reasonable estimated date of completion for the investigation.

(4)(a) If an employing agency receives credible allegations and opens an internal investigation within two years after the day on which a peace officer's employment terminates, the employing agency shall:

(i) notify the division within 30 days after the day on which the employing agency opens the investigation; and

(ii) provide a reasonable estimated date of completion for the investigation.

(b) If the allegations described in Subsection (4)(a) involve alleged violations of Subsection 53-6-211(1), the agency shall report the allegations to the division in accordance with Subsection 53-6-211(6), regardless of whether the employing agency opens an internal investigation.

(5)(a) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a peace officer is liable to the division for any damages that the failure to make the notification causes.

(b) The division shall provide the change of status form described in this section to the Utah Board of Higher Education within 30 days after the day on which the division receives a notice of termination if the relevant peace officer has received a Karen Mayne Public Safety Officer Scholarship as described in Section [53B-8-112.5] 53H-11-403.

Section 77. Section **53-7-204** is amended to read:

53-7-204 (Effective upon governor's approval). Duties of Utah Fire Prevention Board -- Unified Code Analysis Council -- Local administrative duties.

(1) The board shall:

- (a) administer the state fire code as the standard in the state;
- (b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:
 - (A) publicly owned building, including all public and private schools, colleges, and university buildings;
 - (B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or
 - (C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;
 - (ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:
 - (A) the state fire code; and
 - (B) relevant publications of the National Fire Protection Association;
 - (iii) establishing safety standards for retail storage, handling, and sale of a division 1.4G common state approved explosive;
 - (iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;
 - (v) subject to Subsection (2), creating a uniform statewide policy regarding a state, county, special district, and local government entity's safe seizure, storage, and repurposing, destruction, or disposal of a division 1.1G explosive, division 1.2G explosive, division 1.3G explosive, or division 1.4G explosive that:
 - (A) is illegal; or
 - (B) a person uses or handles in an illegal manner;
 - (vi) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;
 - (vii) implementing Section 15A-1-403;

- 5639 (viii) establishing criteria for the certification of firefighters, pump operators,
5640 instructors, fire officers, fire investigators, and rescue personnel not certified or
5641 licensed under any other section of the Utah Code;
- 5642 (ix) establishing criteria for training and safety equipment grants for fire departments
5643 enrolled in firefighter certification;
- 5644 (x) establishing ongoing training standards for hazardous materials emergency
5645 response agencies;
- 5646 (xi) establishing criteria for the fire safety inspection of a food truck; and
- 5647 (xii) establishing criteria for the accreditation and reaccreditation of fire service
5648 training organizations;
- 5649 (c) recommend to the commissioner a state fire marshal;
- 5650 (d) develop policies under which the state fire marshal and the state fire marshal's
5651 authorized representatives will perform;
- 5652 (e) provide for the employment of field assistants and other salaried personnel as
5653 required;
- 5654 (f) prescribe the duties of the state fire marshal and the state fire marshal's authorized
5655 representatives;
- 5656 (g) provide technical expertise, advice, and support to Utah Valley University in the
5657 establishment and operation of the fire and rescue training program described in
5658 Section ~~[53B-29-202]~~ 53H-4-705;
- 5659 (h) establish a statewide fire statistics program for the purpose of gathering fire data
5660 from all political subdivisions of the state;
- 5661 (i) coordinate the efforts of all people engaged in fire suppression in the state;
- 5662 (j) work aggressively with the local political subdivisions to reduce fire losses;
- 5663 (k) regulate the sale and servicing of portable fire extinguishers and automatic fire
5664 suppression systems in the interest of safeguarding lives and property;
- 5665 (l) establish a certification program for persons who inspect and test automatic fire
5666 sprinkler systems;
- 5667 (m) establish a certification program for persons who inspect and test fire alarm systems;
- 5668 (n) establish a certification for persons who provide response services regarding
5669 hazardous materials emergencies;
- 5670 (o) in accordance with Sections 15A-1-403 and 68-3-14, submit a written report to the
5671 Business and Labor Interim Committee; and
- 5672 (p) jointly create the Unified Code Analysis Council with the Uniform Building Code

Commission in accordance with Section 15A-1-203.

(2)(a) In the rules that the board makes under Subsection (1)(b)(v), the board shall include a provision prohibiting a state, county, special district, or local government entity from disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under circumstances described in the rule.

(b) When making a rule under Subsection (1)(b)(v), the board shall:

(i) review and include applicable references to:

(A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and

(B) provisions of the International Fire Code; and

(ii) consider the appropriate role of the following in relation to the rule:

(A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and

(B) a firework wholesaler or distributor.

(3) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

(4) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

Section 78. Section **53-9-102** is amended to read:

53-9-102 (Effective upon governor's approval). Definitions.

In this chapter, unless otherwise stated:

(1) "Adequate records" means records containing, at a minimum, sufficient information to identify the client, the dates of service, the fee for service, the payments for service, the type of service given, and copies of any reports that may have been made.

(2) "Advertising" means the submission of bids, contracting or making known by any public notice, publication, or solicitation of business, directly or indirectly, that services regulated under this chapter are available for consideration.

(3) "Agency" means a person who holds an agency license pursuant to this chapter, and includes one who employs an individual for wages and salary, and withholds all legally

5707 required deductions and contributions, or contracts with a registrant or an apprentice on
5708 a part-time or case-by-case basis to conduct an investigation on behalf of the agency.

5709 (4) "Applicant" means any person who has submitted a completed application and all
5710 required fees.

5711 (5) "Apprentice" means a person who holds an apprentice license pursuant to this chapter,
5712 has not met the requirements for registration, and works under the direct supervision and
5713 guidance of an agency.

5714 (6) "Board" means the Bail Bond Recovery and Private Investigator Licensure Board
5715 created in Section 53-11-104.

5716 (7) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

5717 (8) "Commissioner" means the commissioner of the Department of Public Safety.

5718 (9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting
5719 from trial or plea, including a plea of no contest, regardless of whether the imposition of
5720 sentence was suspended.

5721 (10) "Department" means the Department of Public Safety.

5722 (11) "Direct supervision" means that the agency or employer:

5723 (a) is responsible for, and authorizes, the type and extent of work assigned;

5724 (b) reviews and approves all work produced by the apprentice before it goes to the client;

5725 (c) closely supervises and provides direction and guidance to the apprentice in the
5726 performance of his assigned work; and

5727 (d) is immediately available to the apprentice for verbal contact, including by electronic
5728 means.

5729 (12) "DOD civilian" means the same as that term is defined in Section ~~53B-8-102~~
5730 53H-11-202.

5731 (13) "Emergency action" means a summary suspension of a license pending revocation,
5732 suspension, or probation in order to protect the public health, safety, or welfare.

5733 (14) "Employee" means an individual who works for an agency or other employer, is listed
5734 on the agency's or employer's payroll records, and is under the agency's or employer's
5735 direction and control. An employee is not an independent contractor.

5736 (15) "Identification card" means a card issued by the commissioner to a qualified applicant
5737 for an agency, registrant, or apprentice license.

5738 (16) "Letter of concern" means an advisory letter to notify a licensee that while there is
5739 insufficient evidence to support probation, suspension, or revocation of a license, the
5740 department informs the licensee of the need to modify or eliminate certain practices and

that continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the licensee.

(17) "Licensee" means a person to whom an agency, registrant, or apprentice license is issued by the department.

(18)(a) "Private investigator or private detective" means any person, except collection agencies and credit reporting agencies, who, for consideration, engages in business or accepts employment to conduct any investigation for the purpose of obtaining information with reference to:

- (i) crime, wrongful acts, or threats against the United States or any state or territory of the United States;
 - (ii) the identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of any person or group of persons;
 - (iii) the credibility of witnesses or other persons;
 - (iv) the whereabouts of missing persons or owners of abandoned property;
 - (v) the causes and origin of, or responsibility for a fire, libel, slander, a loss, an accident, damage, or an injury to real or personal property;
 - (vi) the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the trial preparation;
 - (vii) the prevention, detection, and removal of installed devices for eavesdropping or observation;
 - (viii) the business of "skip tracing" persons who have become delinquent in their lawful debts, either when hired by an individual, collection agency, or through the direct purchase of the debt from a financial institution or entity owning the debt or judgment; or
 - (ix) serving civil process.
- (b) "Private investigator or private detective" does not include:
- (i) any person or employee conducting an investigation on the person's or employee's own behalf or on behalf of the employer if the employer is not a private investigator under this chapter;
 - (ii) an employee of an attorney licensed to practice law in this state; or
 - (iii) a currently licensed certified public accountant or CPA as defined in Section

5775 58-26a-102.

5776 (19) "Qualifying party" means the individual meeting the qualifications under this chapter
5777 for a private investigator license.

5778 (20) "Registrant" means any person who holds a registrant license pursuant to this chapter.
5779 The registrant performs private investigative work either as an employee on an
5780 employer's payroll or, on a contract with an agency, part-time, or case-by-case basis,
5781 with a minimum amount of direction.

5782 (21) "Restructuring" means any change in the legal status of a business.

5783 (22) "Unprofessional conduct" means any of the following:

- 5784 (a) engaging or offering to engage by fraud or misrepresentation in any activities
5785 regulated by this chapter;
- 5786 (b) aiding or abetting a person who is not licensed pursuant to this chapter in
5787 representing that person as a private investigator or registrant in this state;
- 5788 (c) gross negligence in the practice of a private investigator or registrant;
- 5789 (d) failing or refusing to maintain adequate records and investigative findings on a
5790 subject of investigation or a client;
- 5791 (e) committing a felony or a misdemeanor involving any crime that is grounds for
5792 denial, suspension, or revocation of an agency, registrant, or apprentice license. In
5793 all cases, conviction by a court of competent jurisdiction or a plea of no contest is
5794 conclusive evidence of the commission of the crime; or
- 5795 (f) making a fraudulent or untrue statement to the bureau, board, department, or its
5796 investigators, staff, or consultants.

5797 Section 79. Section **53-10-302** is amended to read:

5798 **53-10-302 (Effective upon governor's approval). Bureau duties.**

5799 The bureau shall:

- 5800 (1) provide assistance and investigative resources to divisions within the Department of
5801 Public Safety;
- 5802 (2) upon request, provide assistance and specialized law enforcement services to local law
5803 enforcement agencies;
- 5804 (3) conduct financial investigations regarding suspicious cash transactions, fraud, and
5805 money laundering;
- 5806 (4) investigate criminal activity of organized crime networks, gangs, extremist groups, and
5807 others promoting violence;
- 5808 (5) investigate criminal activity of terrorist groups;

- 5809 (6) enforce the Utah Criminal Code;
- 5810 (7) cooperate and exchange information with other state agencies and with other law
- 5811 enforcement agencies of government, both within and outside of this state, through a
- 5812 statewide information and intelligence center to obtain information that may achieve
- 5813 more effective results in the prevention, detection, and control of crime and
- 5814 apprehension of criminals, including systems described in ~~[Sections]~~ Section 53E-3-518, [
- 5815 53B-17-1202] Section 53H-4-210, and Subsection 63H-7a-103(14);
- 5816 (8) create and maintain a statewide criminal intelligence system;
- 5817 (9) provide specialized case support and investigate illegal drug production, cultivation, and
- 5818 sales;
- 5819 (10) investigate, follow-up, and assist in highway drug interdiction cases;
- 5820 (11) make rules to implement this chapter;
- 5821 (12) perform the functions specified in Part 2, Bureau of Criminal Identification;
- 5822 (13) provide a state cybercrime unit to investigate computer and network intrusion matters
- 5823 involving state-owned computer equipment and computer networks as reported under
- 5824 Section 76-6-705;
- 5825 (14) investigate violations of Section 76-6-703 and other computer related crimes,
- 5826 including:
- 5827 (a) computer network intrusions;
- 5828 (b) denial of services attacks;
- 5829 (c) computer related theft or fraud;
- 5830 (d) intellectual property violations; and
- 5831 (e) electronic threats;
- 5832 (15) upon request, investigate the following offenses when alleged to have been committed
- 5833 by an individual who is currently or has been previously elected, appointed, or employed
- 5834 by a governmental entity:
- 5835 (a) criminal offenses; and
- 5836 (b) matters of public corruption; and
- 5837 (16)(a) not be prohibited from investigating crimes not specifically referred to in this
- 5838 section; and
- 5839 (b) other agencies are not prohibited from investigating crimes referred to in this section.
- 5840 Section 80. Section **53-13-103** is amended to read:
- 5841 **53-13-103 (Effective upon governor's approval). Law enforcement officer.**
- 5842 (1)(a) "Law enforcement officer" means a sworn and certified peace officer:

- 5843 (i) who is an employee of a law enforcement agency; and
5844 (ii) whose primary and principal duties consist of the prevention and detection of
5845 crime and the enforcement of criminal statutes or ordinances of this state or any of
5846 its political subdivisions.
- 5847 (b) "Law enforcement officer" includes the following:
- 5848 (i) a sheriff or deputy sheriff, chief of police, police officer, or marshal of any county,
5849 city, or town;
- 5850 (ii) the commissioner of public safety and any member of the Department of Public
5851 Safety certified as a peace officer;
- 5852 (iii) all individuals specified in Section 79-2-704;
- 5853 (iv) a police officer employed by [a-state] an institution of higher education;
- 5854 (v) investigators for the Motor Vehicle Enforcement Division;
- 5855 (vi) investigators for the Department of Insurance, Fraud Division;
- 5856 (vii) special agents or investigators employed by the attorney general, district
5857 attorneys, and county attorneys;
- 5858 (viii) employees of the Department of Natural Resources designated as peace officers
5859 by law;
- 5860 (ix) school district police officers as designated by the board of education for the
5861 school district;
- 5862 (x) the executive director of the Department of Corrections and any correctional
5863 enforcement or investigative officer designated by the executive director and
5864 approved by the commissioner of public safety and certified by the division;
- 5865 (xi) correctional enforcement, investigative, or Division of Adult Probation and
5866 Parole officers employed by the Department of Corrections serving on or before
5867 July 1, 1993;
- 5868 (xii) members of a law enforcement agency established by a private college or
5869 university if the agency is certified by the commissioner under Chapter 19,
5870 Certification of Private Law Enforcement Agency;
- 5871 (xiii) airport police officers of any airport owned or operated by the state or any of its
5872 political subdivisions; and
- 5873 (xiv) transit police officers designated under Section 17B-2a-822.
- 5874 (2) Law enforcement officers may serve criminal process and arrest violators of any law of
5875 this state and have the right to require aid in executing their lawful duties.
- 5876 (3)(a) A law enforcement officer has statewide full-spectrum peace officer authority, but

the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b)(i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a)(i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 81. Section **53-17a-101** is amended to read:

53-17a-101 (Effective upon governor's approval). Fallen Officer Memorial Scholarship Program -- Rulemaking.

(1) As used in this section:

(a) "Child" means an individual who:

(i) is a natural or adopted child of a public safety officer or a firefighter who died in the line of duty; and

(ii) was under ~~[the age of]~~ 25 years old at the time of the public safety officer's or firefighter's death.

(b) "Died in the line of duty" means a death that is classified as a line-of-duty death under the provisions of Section 49-14-102, 49-15-102, 49-16-102, or 49-23-102.

(c) "Educational-related expenses" includes tuition, fees, books, and other expenses related to obtaining an education.

(d) "Firefighter" means the same as that term is defined in Section 34A-3-113.

(e) "Public safety officer" means an individual who:

(i) is employed as:

(A) a law enforcement officer in accordance with Section 53-13-103;

(B) a correctional officer in accordance with Section 53-13-104; or

(C) a special function officer in accordance with Section 53-13-105; and

(ii) in the course of the individual's employment, put the individual's life or personal safety at risk.

(2) This section creates the Fallen Officer Memorial Scholarship Program, to be administered by the department.

(3) Subject to legislative appropriations and Subsection (6), the department shall provide \$5,000 per year for up to four years to an applicant who:

(a) is a child of a public safety officer or a firefighter who died in the line of duty;

(b) is 17 years old or older;

(c) certifies, on a form provided by the department, that the applicant agrees to use the funds entirely for educational-related expenses; and

(d) fulfills any other application requirement established by the department.

(4) Nothing in this section affects a child's ability to obtain a tuition waiver under Section [~~53B-8e-103~~] 53H-11-306.

(5)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules necessary to administer this section, including:

(i) setting deadlines for receiving applications and supporting documentation; and

(ii) establishing the application process and an appeal process for the Fallen Officer Memorial Scholarship Program.

(b) The department shall include a disclosure on all applications and related materials that the amount of funds provided may be subject to funding or be reduced, in accordance with Subsection (6).

(6)(a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the department for the costs associated with the Fallen Officer Memorial Scholarship Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the Fallen Officer Memorial Scholarship Program, the department may:

(i) reduce the amount of funds distributed to an applicant; or

(ii) distribute funds on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 82. Section **53C-3-105** is amended to read:

53C-3-105 (Effective upon governor's approval). Disposition of revenue for normal schools.

Money distributed for the benefit of the state's normal schools, as provided under the Utah Enabling Act, Section 12, Utah Constitution, Article X, Section 7, Utah Constitution, Article XX, Section 2, and Sections 53C-3-101 and 53C-3-103, shall be allocated to institutions [~~within the state system~~] of higher education, as defined in Section [~~53B-1-102~~] 53H-1-101, that offer bachelor's degrees in education in proportion to the number of bachelor's degrees awarded by those institutions in the previous fiscal year.

Section 83. Section **53D-2-203** is amended to read:

53D-2-203 (Effective upon governor's approval). Land Trusts Protection and Advocacy Office director -- Appointment -- Removal -- Power and duties.

(1)(a) The advocacy committee shall:

- (i) discuss candidates who may qualify for appointment as the advocacy director, as described in Subsection (1)(b);
- (ii) determine the two most qualified candidates; and
- (iii) submit the names of those two candidates to the state treasurer as potential appointees for the advocacy director.

(b) A potential appointee for advocacy director shall have significant expertise and qualifications relating to generating revenue to the school and institutional trust and the duties of the advocacy office and the advocacy director, which may include expertise in:

- (i) business;
- (ii) finance;
- (iii) economics;
- (iv) natural resources; or
- (v) advocacy.

(c) From the individuals described in Subsection (1)(a), the state treasurer shall appoint one as the advocacy director.

(2)(a) An advocacy director shall serve a four-year term.

(b) If a vacancy occurs in the advocacy director's position, the advocacy committee and state treasurer shall, in accordance with Subsection (1), appoint a replacement director for a four-year term.

(3) The advocacy committee may remove the advocacy director during a meeting that is not closed as described in Section 52-4-204, if:

- 5979 (a) removal of the advocacy director is scheduled on the agenda for the meeting; and
5980 (b) a majority of a committee quorum votes to remove the advocacy director.
- 5981 (4) In accordance with state and federal law, the advocacy director may attend a
5982 presentation, discussion, meeting, or other gathering related to the school and
5983 institutional trust.
- 5984 (5) In order to fulfill the duties of the advocacy office described in Section 53D-2-201, the
5985 advocacy director shall:
- 5986 (a) maintain a direct relationship with each individual who is key to fulfilling the state's
5987 trustee obligations and duties related to the trust;
- 5988 (b) facilitate open communication among key individuals described in Subsection (5)(a);
- 5989 (c) actively seek necessary and accurate information;
- 5990 (d) review and, if necessary, recommend the state auditor audit, activities involved in:
- 5991 (i) generating trust revenue;
- 5992 (ii) protecting trust assets; or
- 5993 (iii) distributing funds for the exclusive use of trust beneficiaries;
- 5994 (e) promote accurate record keeping of all records relevant to the trust and distribution to
5995 trust beneficiaries;
- 5996 (f) report at least quarterly to the advocacy committee and the state treasurer on the
5997 current activities of the advocacy office;
- 5998 (g) annually submit a proposed advocacy office budget to the state treasurer;
- 5999 (h) regarding the trust's compliance with law, and among the School and Institutional
6000 Trust Lands System as a whole, report annually to:
- 6001 (i) the advocacy committee;
- 6002 (ii) the state treasurer;
- 6003 (iii) the State Board of Education; and
- 6004 (iv) the Executive Appropriations Committee;
- 6005 (i) annually send a financial report regarding the relevant individual trust, and, upon
6006 request, report in person to:
- 6007 (i) Utah State University, on behalf of the agricultural college trust;
- 6008 (ii) the University of Utah;
- 6009 (iii) the Utah State Hospital, on behalf of the mental hospital trust;
- 6010 (iv) the Utah Schools for the Deaf and the Blind, on behalf of the schools for the deaf
6011 and blind trusts;
- 6012 (v) the youth in care program at the State Board of Education, on behalf of the reform

- 6013 school trust;
- 6014 (vi) the Division of Water Resources, created in Section 73-10-18, on behalf of the
- 6015 reservoir trust;
- 6016 (vii) the College of Mines and Earth Sciences created in Section ~~[53B-17-401]~~
- 6017 53H-4-208;
- 6018 (viii) each state teachers' college, based on the college's annual number of teacher
- 6019 graduates, on behalf of the normal school trust;
- 6020 (ix) the Miners' Hospital described in Section ~~[53B-17-201]~~ 53H-4-207; and
- 6021 (x) the State Capitol Preservation Board, created in Section 63O-2-201, on behalf of
- 6022 the public buildings trust;
- 6023 (j) as requested by the state treasurer, draft proposed rules and submit the proposed rules
- 6024 to the advocacy committee for review;
- 6025 (k) in accordance with state and federal law, respond to external requests for information
- 6026 about the School and Institutional Trust Lands System;
- 6027 (l) in accordance with state and federal law, speak on behalf of trust beneficiaries:
- 6028 (i) at School and Institutional Trust Lands Administration meetings;
- 6029 (ii) at School and Institutional Trust Fund Office meetings; and
- 6030 (iii) with the media;
- 6031 (m) review proposed legislation that affects the school and institutional trust and trust
- 6032 beneficiaries and advocate for legislative change that best serves the interests of the
- 6033 trust beneficiaries; and
- 6034 (n) educate the public regarding the School and Institutional Trust Lands System.
- 6035 (6) With regard to reviewing the activities described in Subsection (5)(d), the advocacy
- 6036 director may have access to the financial reports and other data required for a review.
- 6037 Section 84. Section **53E-1-201** is amended to read:
- 6038 **53E-1-201 (Effective upon governor's approval) (Partially Repealed 07/01/27).**
- 6039 **Reports to and action required of the Education Interim Committee.**
- 6040 (1) In accordance with applicable provisions and Section 68-3-14, the following recurring
- 6041 reports are due to the Education Interim Committee:
- 6042 (a) the report described in Section 9-22-109 by the STEM Action Center Board,
- 6043 including the information described in Section 9-22-113 on the status of the computer
- 6044 science initiative and Section 9-22-114 on the Computing Partnerships Grants
- 6045 Program;
- 6046 (b) the prioritized list of data research described in Section ~~[53B-33-302]~~ 53H-15-303

- 6047 and the report on research and activities described in Section [~~53B-33-304~~]
6048 53H-15-305 by the Utah Data Research Center;
- 6049 (c) the report described in Section [~~53B-1-402~~] 53H-1-203 by the Utah Board of Higher
6050 Education on career and technical education issues and addressing workforce needs;
- 6051 (d) the annual report of the Utah Board of Higher Education described in Section [
6052 ~~53B-1-402~~] 53H-1-203;
- 6053 (e) the reports described in Section [~~53B-28-403~~] 53H-7-603 by the Utah Board of
6054 Higher Education regarding activities related to campus safety;
- 6055 (f) the State Superintendent's Annual Report by the state board described in Section
6056 53E-1-203;
- 6057 (g) the annual report described in Section 53E-2-202 by the state board on the strategic
6058 plan to improve student outcomes;
- 6059 (h) the report described in Section 53E-3-501 by the state board on students in an LEA
6060 who receive academic credit through the packet method;
- 6061 (i) the report described in Section 53E-8-204 by the state board on the Utah Schools for
6062 the Deaf and the Blind;
- 6063 (j) the report described in Section 53E-10-703 by the Utah Leading through Effective,
6064 Actionable, and Dynamic Education director on research and other activities;
- 6065 (k) the report described in Section 53F-2-522 regarding mental health screening
6066 programs;
- 6067 (l) the report described in Section 53F-4-203 by the state board and the independent
6068 evaluator on an evaluation of early interactive reading software;
- 6069 (m) the report described in Section 53F-6-412 by the program manager of the Utah Fits
6070 All Scholarship Program;
- 6071 (n) the report described in Section 63N-20-107 by the Governor's Office of Economic
6072 Opportunity on UPSTART;
- 6073 (o) the report described in Section 53F-5-215 by the state board related to a grant for an
6074 elementary teacher preparation assessment;
- 6075 (p) upon request, the report described in Section 53F-5-219 by the state board on the
6076 Local Innovations Civics Education Pilot Program;
- 6077 (q) the report described in Section 53F-5-405 by the state board regarding an evaluation
6078 of a partnership that receives a grant to improve educational outcomes for students
6079 who are low-income;
- 6080 (r) the report described in Section [~~53B-35-202~~] 53H-1-604 regarding the Higher

- 6081 Education and Corrections Council;
- 6082 (s) the report described in Section 53G-7-221 by the state board regarding innovation
- 6083 plans; and
- 6084 (t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship
- 6085 Program.
- 6086 (2) In accordance with applicable provisions and Section 68-3-14, the following occasional
- 6087 reports are due to the Education Interim Committee:
- 6088 (a) in 2027, 2030, 2033, and 2035, the reports described in Sections [~~53B-1-116~~]
- 6089 53H-1-502, [~~53B-1-117~~] 53H-1-503, and [~~53B-1-118~~] 53H-1-504;
- 6090 (b) in 2025, the report described in Section [~~53B-16-701~~] 53H-6-203 by a
- 6091 degree-granting institution regarding policies on abusive coaching practices;
- 6092 (c) if required, the report described in Section 53E-4-309 by the state board explaining
- 6093 the reasons for changing the grade level specification for the administration of
- 6094 specific assessments;
- 6095 (d) if required, the report described in Section 53E-5-210 by the state board of an
- 6096 adjustment to the minimum level that demonstrates proficiency for each statewide
- 6097 assessment;
- 6098 (e) the report described in Section 53E-10-702 by Utah Leading through Effective,
- 6099 Actionable, and Dynamic Education;
- 6100 (f) if required, the report described in Section 53F-2-513 by the state board evaluating
- 6101 the effects of salary bonuses on the recruitment and retention of effective teachers in
- 6102 high-poverty schools;
- 6103 (g) upon request, the report described in Section 53F-10-303 by the state board
- 6104 regarding the Rural School Sports Facilities Grant Program;
- 6105 (h) upon request, a report described in Section 53G-7-222 by an LEA regarding
- 6106 expenditure of a percentage of state restricted funds to support an innovative
- 6107 education program;
- 6108 (i) the reports described in Section 53G-11-304 by the state board regarding proposed
- 6109 rules and results related to educator exit surveys; and
- 6110 (j) the report described in Section 26B-5-113 by the Office of Substance Use and Mental
- 6111 Health, the state board, and the Department of Health and Human Services regarding
- 6112 recommendations related to Medicaid reimbursement for school-based health
- 6113 services.
- 6114 (3) In accordance with applicable provisions and Section 68-3-14, every five years the

- 6115 Education Interim Committee shall review the programs described in the following
6116 sections of code:
- 6117 (a) beginning July 1, 2027, Title 53E, Chapter 10, Part 3, Concurrent Enrollment;
 - 6118 (b) beginning July 1, 2027, Section 53F-2-408, Enhancement for Accelerated Students
6119 Program;
 - 6120 (c) beginning July 1, 2027, Section 53F-2-409, Concurrent enrollment funding;
 - 6121 (d) beginning July 1, 2027, Section 53F-2-415, Student health and counseling support --
6122 Qualifying personnel -- Distribution formula -- Rulemaking;
 - 6123 (e) beginning July 1, 2028, Section 53F-2-416, Appropriation and distribution for the
6124 Teacher and Student Success Program;
 - 6125 (f) beginning July 1, 2028, Section 53F-2-510, Digital Teaching and Learning Grant
6126 Program;
 - 6127 (g) beginning July 1, 2028, Section 53F-9-306, Teacher and Student Success Account;
 - 6128 (h) beginning July 1, 2028, Title 53G, Chapter 7, Part 13, Teacher and Student Success
6129 Program; and
 - 6130 (i) beginning July 1, 2029, Section 53F-2-502, Dual language immersion.

6131 Section 85. Section **53E-3-501** is amended to read:

6132 **53E-3-501 (Effective upon governor's approval). State board to establish**
6133 **miscellaneous minimum standards for public schools.**

- 6134 (1) The state board shall establish rules and minimum standards for the public schools that
6135 are consistent with this public education code, including rules and minimum standards
6136 governing the following:
- 6137 (a)(i) the qualification and certification of educators and ancillary personnel who
6138 provide direct student services;
 - 6139 (ii) required school administrative and supervisory services; and
 - 6140 (iii) the evaluation of instructional personnel;
 - 6141 (b)(i) access to programs;
 - 6142 (ii) attendance;
 - 6143 (iii) competency levels;
 - 6144 (iv) graduation requirements; and
 - 6145 (v) discipline and control;
 - 6146 (c)(i) school accreditation;
 - 6147 (ii) the academic year;
 - 6148 (iii) alternative and pilot programs;

- 6149 (iv) curriculum and instruction requirements; and
6150 (v) school libraries;
6151 (d) services to:
6152 (i) persons with a disability as defined by and covered under:
6153 (A) the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102;
6154 (B) the Rehabilitation Act of 1973, 29 U.S.C. Sec. 705(20)(A); and
6155 (C) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1401(3); and
6156 (ii) other special groups;
6157 (e)(i) state reimbursed bus routes;
6158 (ii) bus safety and operational requirements; and
6159 (iii) other transportation needs;
6160 (f)(i) school productivity and cost effectiveness measures;
6161 (ii) federal programs;
6162 (iii) school budget formats; and
6163 (iv) financial, statistical, and student accounting requirements; and
6164 (g) data collection and reporting by LEAs.
6165 (2) Except as provided in Subsection (3), the state board shall determine if:
6166 (a) the minimum standards have been met; and
6167 (b) required reports are properly submitted.
6168 (3) When the state board makes a request of an LEA under Subsection (1)(f) or (g), the
6169 state board shall include:
6170 (a) the justification for the requested information;
6171 (b) a statement confirming that the information is not available elsewhere;
6172 (c) a deadline by which the LEA must provide the information in accordance with state
6173 board rule; and
6174 (d) penalties, including withholding of funds, for non-compliance in accordance with
6175 state and federal law.
6176 (4) The state board may apply for, receive, administer, and distribute to eligible applicants
6177 funds made available through programs of the federal government.
6178 (5)(a) A technical college listed in Section [~~53B-2a-105~~] 53H-3-1202 shall provide
6179 competency-based career and technical education courses that fulfill high school
6180 graduation requirements, as requested and authorized by the state board.
6181 (b) A school district may grant a high school diploma to a student participating in a
6182 course described in Subsection (5)(a) that is provided by a technical college listed in

6183 Section ~~[53B-2a-105]~~ 53H-3-1202.

6184 (6)(a) As used in this Subsection (6), "generally accepted accounting principles" means a
6185 common framework of accounting rules and standards for financial reporting
6186 promulgated by the Governmental Accounting Standards Board.

6187 (b) Subject to Subsections (6)(c) and (d), the state board shall ensure the rules and
6188 standards described in Subsections (1)(f) and (g) allow for an LEA to make
6189 adjustments to the LEA's general entry ledger, in accordance with generally accepted
6190 accounting principles, to accurately reflect the LEA's use of funds for allowable costs
6191 and activities:

6192 (i) during a fiscal year; and

6193 (ii) at the close of a fiscal year.

6194 (c) If the state board determines under Subsection (2) that an LEA has not met the
6195 minimum standards described in Subsection (1)(f) or (g) or has not properly
6196 submitted a required report, the state board shall allow the LEA an opportunity to
6197 cure the relevant defect through an adjustment described in Subsection (6)(b).

6198 (d) An LEA may not, in an adjustment described in Subsection (6)(b), reflect the use of
6199 restricted federal or state funds for a cost or activity that is not an allowable cost or
6200 activity for the restricted funds.

6201 (7)(a) As used in this Subsection (7):

6202 (i)(A) "Comparable course" means a course that fulfills the same graduation credit
6203 requirements as a course for which a student seeks to improve a grade.

6204 (B) "Comparable course" does not include a course a student completes through
6205 the packet method.

6206 (ii) "Grade replacement" means credit a student earns by retaking a teacher-led
6207 course for a letter grade to improve a previous grade, which:

6208 (A) may raise the student's grade point average if the new grade is higher; and

6209 (B) replaces the lower grade on the student's transcript.

6210 (iii) "Original credit" means credit a student earns through the successful completion
6211 of a course for the first time.

6212 (iv) "Packet" means a collection of instructional materials and assessments used to
6213 receive credit through the packet method.

6214 (v) "Packet method" means an educational approach where:

6215 (A) a high school student receives a collection of instructional materials from an
6216 institution, organization, or LEA;

- 6217 (B) the high school student works through the materials independently with
6218 minimal or no direct instruction from a teacher; and
6219 (C) assessment is primarily based on completion of assignments within the
6220 instructional materials.
- 6221 (vi) "Replacement credit" means a pass-fail credit a student earns for a course the
6222 student did not pass or complete, which:
6223 (A) does not affect the student's grade point average; and
6224 (B) allows the student to fulfill high school graduation requirements.
- 6225 (b) An LEA may award a grade for original credit or replacement credit through the
6226 packet method if the packet adheres to the standards prescribed in state board rule
6227 and:
6228 (i) the LEA approves the packet for use as an instructional material in accordance
6229 with:
6230 (A) Subsection 53G-4-402(27) for a district school; or
6231 (B) Section 53G-5-404 for a charter school; or
6232 (ii) the state board recommends the packet after going through the state instructional
6233 materials process described in Title 53E, Chapter 4, Part 4, State Instructional
6234 Materials.
- 6235 (c) An LEA may not use the packet method, or classify a packet as original credit, to
6236 improve a previous course grade of a high school student as described in Subsection
6237 (7)(d).
- 6238 (d) A high school student may improve a grade through grade replacement by:
6239 (i) repeating a course one or more times; or
6240 (ii) enrolling in and completing a comparable course that is teacher-led.
- 6241 (e) The state board shall:
6242 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
6243 make rules or policies that:
6244 (A) establish standards for the use of the packet method to award original credit
6245 and replacement credit;
6246 (B) include alignment with core standards the state board establishes under
6247 Sections 53E-3-501 and 53E-4-202; and
6248 (C) maintain a comprehensive list of state board approved packets in the state
6249 board's Recommended Instructional Materials System on the state board's
6250 website; and

- 6251 (ii) report annually to the Education Interim Committee the number of students in
6252 each LEA who receive academic credit through the packet method.
- 6253 (f) An LEA shall:
- 6254 (i) assign a distinct course name and number for credit earned through the packet
6255 method to easily identify the use of the packet method on a student transcript; and
- 6256 (ii) track and record the number of packets an LEA uses to award original credit or
6257 replacement credit each school year.

6258 Section 86. Section **53E-3-507** is amended to read:

6259 **53E-3-507 (Effective upon governor's approval). Powers of the state board.**

6260 The state board:

- 6261 (1) shall establish minimum standards for career and technical education programs in the
6262 public education system;
- 6263 (2) may apply for, receive, administer, and distribute funds made available through
6264 programs of federal and state governments to promote and aid career and technical
6265 education;
- 6266 (3) shall cooperate with federal and state governments to administer programs that promote
6267 and maintain career and technical education;
- 6268 (4) shall cooperate with the Utah Board of Higher Education, technical colleges, and
6269 degree-granting institutions that provide technical education described in Section [
6270 ~~53B-2a-201~~] 53H-3-608 to ensure that students in the public education system have
6271 access to career and technical education at technical colleges and degree-granting
6272 institutions that provide technical education described in Section [~~53B-2a-201~~]
6273 53H-3-608;
- 6274 (5) shall require that before a minor student may participate in clinical experiences as part
6275 of a health care occupation program at a high school or other institution to which the
6276 student has been referred, the student's parent has:
- 6277 (a) been first given written notice through appropriate disclosure when registering and
6278 prior to participation that the program contains a clinical experience segment in
6279 which the student will observe and perform specific health care procedures that may
6280 include personal care, patient bathing, and bathroom assistance; and
- 6281 (b) provided specific written consent for the student's participation in the program and
6282 clinical experience;
- 6283 (6) shall, after consulting with school districts, charter schools, the Utah Board of Higher
6284 Education, technical colleges, and degree-granting institutions that provide technical

education described in Section [~~53B-2a-201~~] 53H-3-608, prepare and submit an annual report in accordance with Section 53E-1-203 detailing:

(a) how the career and technical education needs of secondary students are being met; and

(b) the access secondary students have to programs offered:

(i) at technical colleges; and

(ii) within the regions served by degree-granting institutions that provide technical education described in Section [~~53B-2a-201~~] 53H-3-608; and

(7) when the Office of the Legislative Fiscal Analyst requests information from the board related to a fiscal note for a proposed bill, shall report to the Office of the Legislative Fiscal Analyst, in addition to the other information requested, whether the proposed bill will impact the reporting requirements for local education agencies and if so:

(a) whether the impact increases or decreases the reporting requirements;

(b) whether the change in requirements is high, medium, or low; and

(c) the effect of the change in requirements on the amount and quality of information available to taxpayers, parents, and legislators.

Section 87. Section **53E-3-507.1** is amended to read:

53E-3-507.1 (Effective upon governor's approval). Catalyst Center Grant

Program.

(1) As used in this section:

(a) "Catalyst center" means a program or facility operated by an LEA that:

(i) provides learning experiences and instruction that replicate professional environments and workplace practices, including experiences obtained through the Utah First Credential program described in Section 53E-10-310;

(ii) provides profession-based learning experiences by partnering with local industry, business, and community organizations to develop and implement student projects that address specific needs or objectives identified by those partners;

(iii) aligns programs with high-skill, high-demand career pathways and postsecondary education opportunities;

(iv) incorporates industry-standard tools, technologies, and methods into instruction and student work;

(v) prioritizes student activities and profession-based learning projects to build durable professional skills aligned with industry standards and needs;

(vi) facilitates mentorship and participation by industry professionals to guide a

- 6319 student and evaluate the student's work;
- 6320 (vii) includes an advisory board composed of industry, postsecondary, and
- 6321 community representatives to review program direction and ensure alignment with
- 6322 workforce needs; and
- 6323 (viii) establishes programs or activities that address gaps in training or resources
- 6324 within the local or regional workforce.
- 6325 (b) "Director" means the employee described in Subsection (3).
- 6326 (c) "LEA" means:
- 6327 (i) a school district;
- 6328 (ii) charter school; or
- 6329 (iii) the Utah Schools for the Deaf and the Blind.
- 6330 (d) "Program" means the Catalyst Center Grant Program created in this section.
- 6331 (2) Subject to legislative appropriation as described in Section 53F-9-204, the state board
- 6332 shall establish the Catalyst Center Grant Program to provide funding to an LEA to create
- 6333 or expand an existing catalyst center.
- 6334 (3) The state board shall hire a director to oversee the program who:
- 6335 (a) has demonstrated abilities in:
- 6336 (i) developing and implementing innovative initiatives that transform traditional
- 6337 education delivery models;
- 6338 (ii) establishing public-private partnership frameworks that create student pathways
- 6339 into high-growth industries; and
- 6340 (iii) scaling programs that integrate real-world experiences directly into educational
- 6341 environments;
- 6342 (b) possesses expertise in:
- 6343 (i) managing complex multi-stakeholder initiatives across education, industry, and
- 6344 government sectors;
- 6345 (ii) implementing data-driven organizational change strategies; and
- 6346 (iii) developing sustainable funding models for innovative education programs;
- 6347 (c) maintains active leadership roles in:
- 6348 (i) state or national workforce innovation organizations;
- 6349 (ii) industry associations focused on talent development; and
- 6350 (iii) public-private collaboratives addressing workforce transformation;
- 6351 (d) reports directly to the state superintendent or a deputy superintendent to ensure
- 6352 appropriate program oversight and cross-departmental coordination while

- 6353 maintaining distinct program objectives and outcomes;
- 6354 (e) establishes formal collaboration mechanisms with the state board's career and
- 6355 technical education director to align catalyst center initiatives with existing career
- 6356 and technical education programs; and
- 6357 (f) facilitates training and a collaborative network of experienced catalyst center
- 6358 administrators and instructors across all participating LEAs.
- 6359 (4) The director:
- 6360 (a) shall:
- 6361 (i) administer the program;
- 6362 (ii) collaborate with the director of career and technical education to align the
- 6363 program with the career and technical education standards described in Section
- 6364 53E-3-507;
- 6365 (iii) create a web-based application system to streamline submissions and allow for
- 6366 linked supporting documentation;
- 6367 (iv) ensure that grant funds are used in accordance with this section; and
- 6368 (v) allow grant funds to be used for planning, including:
- 6369 (A) feasibility studies;
- 6370 (B) stakeholder engagement;
- 6371 (C) labor market analysis;
- 6372 (D) initial program design and rollout; and
- 6373 (E) teacher and staff training specific to the delivery of profession-based learning;
- 6374 and
- 6375 (b) may collaborate with the Utah System of Higher Education and the First Credential
- 6376 Oversight Committee established in Section 53E-10-310.
- 6377 (5) An LEA applying for a grant shall demonstrate capacity for workforce alignment
- 6378 programs within the LEA or provide a plan to establish or enhance alignment by:
- 6379 (a) describing current or planned efforts to align programming with labor market needs
- 6380 and local industry demands;
- 6381 (b) outlining steps to establish or enhance partnerships with:
- 6382 (i) local industries and employers to ensure workforce relevance; or
- 6383 (ii) technical colleges, degree-granting institutions, or other postsecondary entities to
- 6384 support postsecondary transitions for students;
- 6385 (c) identifying proposed programming goals and how the goals address gaps in regional
- 6386 workforce training or opportunities; and

- 6387 (d) as the LEA determines relevant, planning to incorporate:
- 6388 (i) career and technical student organizations;
- 6389 (ii) advisory boards with representation from local industries and workforce experts;
- 6390 (iii) professional learning opportunities for instructors to improve workforce-focused
- 6391 skills; and
- 6392 (iv) strategies for using labor market data to refine and improve program offerings.
- 6393 (6)(a) An LEA may apply for a grant by submitting an application to the state board.
- 6394 (b) The application shall include:
- 6395 (i) a plan to:
- 6396 (A) create or expand one or more catalyst centers; or
- 6397 (B) create or expand current career and technical education offerings within the
- 6398 LEA to bring the LEA's career and technical education offerings in alignment
- 6399 with the definition of a catalyst center in Subsection (1);
- 6400 (ii) a detailed multi-year budget, identifying proposed expenditures for each year of
- 6401 the grant;
- 6402 (iii) justification for any capital expenditures, including plans for building use;
- 6403 (iv) a description of how the grant will be used to improve student outcomes,
- 6404 including:
- 6405 (A) increased access to career pathway offerings;
- 6406 (B) measurable improvements in career readiness, including certifications,
- 6407 credentials, or apprenticeships;
- 6408 (C) increased offerings that advance students' progression toward postsecondary
- 6409 education or advanced training; and
- 6410 (D) plans for enhanced student engagement through real-world, profession-based
- 6411 learning;
- 6412 (v) evidence of any existing partnerships with industry, including letters of
- 6413 collaboration;
- 6414 (vi) evidence of alignment with the LEA's strategic plan and local labor market needs;
- 6415 (vii) an explanation of how awarded funds will be used without unnecessary
- 6416 carryforward;
- 6417 (viii) as applicable, a description of how the catalyst center programming will align
- 6418 with or enhance programs funded by the weighted pupil unit add-on described in
- 6419 Section 53F-2-311;
- 6420 (ix) for applications submitted by a consortium of LEAs, a description of how:

6421 (A) the catalyst center will serve students across the consortium;

6422 (B) costs and resources will be shared; and

6423 (C) economies of scale will be achieved; and

6424 (x) a description of any proposed planning activities, including expected timelines
6425 and outcomes.

6426 (7) The director shall:

6427 (a) prioritize an LEA that:

6428 (i) proposes innovative programming supported by local labor market data;

6429 (ii) collaborates with local postsecondary institutions and industry;

6430 (iii) demonstrates the ability to sustain the catalyst center after the grant period;

6431 (iv) demonstrates a strong focus on student outcomes and workforce alignment;

6432 (v) addresses gaps in high-demand, high-skill career pathways;

6433 (vi) ensures funds are used to enhance programming quality before expansion; and

6434 (vii) provides for a large number of students to participate in catalyst center programs
6435 without limiting participation to students based on socio-economic challenges;

6436 (b) allow an LEA to apply for:

6437 (i) smaller grants to bring existing career and technical education programs to
6438 high-quality standards the state board establishes;

6439 (ii) larger multi-year grants for capital expenditures and program expansion; and

6440 (iii) ensure that grant funding does not duplicate existing resources provided by other
6441 state or local entities;

6442 (c) consider the unique challenges and opportunities faced by rural LEAs in developing
6443 and sustaining a career and technical education program or catalyst center, including:

6444 (i) encouraging collaborative applications from rural consortia or regional education
6445 service agencies described in Section 53G-4-410 to maximize resources and
6446 impact; and

6447 (ii) grant awards that consider both rural and non-rural applicants, recognizing
6448 regional workforce needs and program readiness; and

6449 (d) allow an LEA to propose a catalyst center collocated on the campus of an institution
6450 of higher education if the application includes evidence of an agreement between the
6451 LEA and the institution of higher education.

6452 (8)(a) An LEA that receives a grant:

6453 (i) may coordinate and collaborate with the Utah Board of Higher Education or an
6454 individual institution of higher education; and

- 6455 (ii) shall submit an annual report to the state board.
- 6456 (b) The report shall include:
- 6457 (i) the use of grant funds;
- 6458 (ii) progress in meeting proposed goals and benchmarks;
- 6459 (iii) updates on partnerships with industry and postsecondary institutions;
- 6460 (iv) a demonstration of the alignment of programming with labor market data; and
- 6461 (v) a description of student participation and outcomes.
- 6462 (c) The state board shall ensure that awarded funds:
- 6463 (i) are used in accordance with an LEA's application; and
- 6464 (ii) that are not used are returned for reallocation.
- 6465 (d) Upon request, the director shall submit a report on the program to the Education
- 6466 Interim Committee and the Public Education Appropriations Subcommittee.
- 6467 (9) The Talent Ready Utah Program described in Section [~~53B-34-103~~] 53H-13-303 and the
- 6468 Utah Leading through Effective, Actionable, and Dynamic Education established in
- 6469 Section 53E-10-702, shall collaborate with the state board to develop and execute a
- 6470 marketing and outreach plan for the Catalyst Center Grant Program.
- 6471 (10) Talent Ready Utah and the Utah Leading through Effective, Actionable, and Dynamic
- 6472 Education shall:
- 6473 (a) execute the marketing and outreach plan described in Subsection (9); and
- 6474 (b) submit an annual report to the state board that includes:
- 6475 (i) the number of LEAs reached through marketing efforts;
- 6476 (ii) a description of outreach activities and events conducted; and
- 6477 (iii) feedback from LEAs regarding program accessibility and clarity.
- 6478 (11) The state board:
- 6479 (a) may provide up to 1% of the funds appropriated by the Legislature as described in
- 6480 Section 53F-9-204 to administer the program;
- 6481 (b) in fiscal year 2026, shall provide up to 1% of the funds appropriated by the
- 6482 Legislature as described in Section 53F-9-204 to Talent Ready Utah and the Utah
- 6483 Leading through Effective, Actionable, and Dynamic Education for the purposes
- 6484 described in Subsections (9) and (10); and
- 6485 (c) shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 6486 Rulemaking Act, to implement this Subsection (11).
- 6487 Section 88. Section **53E-3-1101** is amended to read:
- 6488 **53E-3-1101 (Effective upon governor's approval). Prohibited discriminatory**

practices -- Restrictions -- Reporting.

- (1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section [53B-1-118] 53H-1-504.
- (2) The state board may not:
 - (a) establish or maintain an office, division, or employment position established to implement, develop, plan, or promote policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or
 - (b) employ or assign an employee or a third-party whose duties for the state board include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.
- (3) Nothing in this section limits or prohibits the state board's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.
- (4) The state board shall provide an update to the Education Interim Committee and Public Education Appropriations Subcommittee on the state board's compliance with this section at or before:
 - (a) the Education Interim Committee's November interim committee meeting; and
 - (b) the Public Education Appropriations Subcommittee December interim subcommittee meeting.

Section 89. Section **53E-3-1201** is amended to read:

53E-3-1201 (Effective upon governor's approval). Definitions.

As used in this part:

- (1) "DOD civilian" means the same as that term is defined in Section [53B-8-102] 53H-11-202.
- (2) "Child of a DOD civilian family" means a school-aged child, enrolled in kindergarten through grade 12, in the household of a currently serving DOD civilian.
- (3) "Deployment" means the period one month prior to the DOD civilian's departure from the DOD civilian's home station on orders through six months after return to the DOD civilian's home station.
- (4)(a) "Educational record" means an official record, file, or data directly related to a student and maintained by a school or an LEA.
- (b) "Educational record" includes records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance,

6523 and of academic work completed, records of achievement and results of evaluative
6524 tests, health data, disciplinary status, test protocols, and individualized education
6525 programs.

6526 (5)(a) "Extracurricular activity" means a voluntary activity sponsored by a school or an
6527 LEA or an organization sanctioned by the LEA.

6528 (b) "Extracurricular activity" includes preparation for and involvement in public
6529 performances, contests, athletic competitions, demonstrations, displays, and club
6530 activities.

6531 (6)(a) "Military installation" means a base, camp, post, station, yard, center, homeport
6532 facility for any ship, or other activity under the jurisdiction of the United States
6533 Department of Defense.

6534 (b) "Military installation" includes a leased facility, which is located within any of the
6535 several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S.
6536 Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other
6537 territory of the United States.

6538 (c) "Military installation" does not include a facility used primarily for civil works,
6539 rivers and harbors projects, or flood control projects.

6540 (7) "Sending state" means the state from which a child of a DOD civilian family is sent,
6541 brought, or caused to be sent or brought.

6542 (8) "State" means a state of the United States, the District of Columbia, the Commonwealth
6543 of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana
6544 Islands, and any other territory of the United States.

6545 (9) "Transferring student" means a child of a DOD civilian family who is seeking to be
6546 enrolled in a school in Utah.

6547 Section 90. Section **53E-4-308** is amended to read:

6548 **53E-4-308 (Effective upon governor's approval). Unique student identifier --**

6549 **Coordination of higher education and public education information technology systems --**

6550 **Coordination of preschool and public education information technology systems.**

6551 (1) As used in this section, "unique student identifier" means an alphanumeric code
6552 assigned to each public education student for identification purposes, which:

6553 (a) is not assigned to any former or current student; and

6554 (b) does not incorporate personal information, including a birth date or ~~[Social Security]~~
6555 social security number.

6556 (2) The state board, through the state superintendent, shall assign each public education

student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The state board and the Utah Board of Higher Education, in collaboration with the Utah Data Research Center created in Section ~~[53B-33-201]~~ 53H-15-202, shall:

(a) coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section ~~[53B-1-109]~~ 53H-1-207; and

(b) coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

(4)(a) The state board and the Department of Workforce Services shall coordinate assignment of a unique student identifier to each student enrolled in a program described in Title 35A, Chapter 15, Preschool Programs.

(b) A unique student identifier assigned to a student under Subsection (4)(a) shall remain the student's unique student identifier used by the state board when the student enrolls in a public school in kindergarten or a later grade.

(c) The Governor's Office of Economic Opportunity, the state board, the Department of Workforce Services, and a contractor as defined in Section 63N-20-101, shall coordinate access to the unique student identifier of a preschool student who later attends an LEA.

Section 91. Section **53E-6-102** is amended to read:

53E-6-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Certificate" means a license issued by a governmental jurisdiction outside the state.

(2) "DOD civilian" means the same as that term is defined in Section ~~[53B-8-102]~~ 53H-11-202.

(3) "Educator" means:

(a) a person who holds a license;

(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the state board, to hold a license; or

(c) a person who is the subject of an allegation which has been received by an LEA, the state board, or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

(4) "License" means an authorization issued by the state board that permits the holder to serve in a professional capacity in the public schools.

- 6591 (5) "National Board certification" means a current certificate issued by the National Board
6592 for Professional Teaching Standards.
- 6593 (6) "School" means a public or private entity that provides educational services to a minor
6594 child.
- 6595 (7) "UPPAC" means the Utah Professional Practices Advisory Commission.
- 6596 Section 92. Section **53E-10-301** is amended to read:
- 6597 **53E-10-301 (Effective upon governor's approval). Definitions.**
- 6598 As used in this part:
- 6599 (1) "Career and technical education course" means a concurrent enrollment course in career
6600 and technical education, as determined by the policy established by the Utah Board of
6601 Higher Education under Section 53E-10-302.
- 6602 (2) "Concurrent enrollment" means enrollment in a course offered through the concurrent
6603 enrollment program described in Section 53E-10-302.
- 6604 (3) "Educator" means the same as that term is defined in Section 53E-6-102.
- 6605 (4) "Eligible institution" means:
- 6606 (a) a degree-granting institution of higher education or a technical college[~~within the~~
6607 ~~state system of higher education~~], as [identified] defined in Section [53B-1-102]
6608 53H-1-101; or
- 6609 (b) a degree-granting institution of higher education or a technical college[~~within the~~
6610 ~~state system of higher education~~], as [identified] defined in Section [53B-1-102]
6611 53H-1-101, that offers an online concurrent enrollment course.
- 6612 (5) "Eligible instructor" means an instructor who meets the requirements described in
6613 Section 53E-10-302.
- 6614 (6) "Eligible student" means a student who:
- 6615 (a)(i) is enrolled in, and counted in average daily membership in, a public school
6616 within the state; or
- 6617 (ii) is in the custody of the Division of Juvenile Justice and Youth Services and
6618 subject to the jurisdiction of the Youth Parole Authority;
- 6619 (b) has on file a plan for college and career readiness as described in Section 53E-2-304;
6620 and
- 6621 (c) is in grade 9, 10, 11, or 12.
- 6622 (7) "License" means the same as that term is defined in Section 53E-6-102.
- 6623 (8) "Local education agency" or "LEA" means a school district or charter school.
- 6624 (9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

(i) number of years teaching in the academic field;

(ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

(v) portfolio of work related to the academic field; or

(vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 93. Section **53E-10-310** is amended to read:

53E-10-310 (Effective upon governor's approval). Utah first credential program.

(1) As used in this section:

(a) "Eligible institution" means ~~[a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Subsection 53B-2-101(1)]~~ an institution of higher education as defined in Section 53H-1-101.

(b) "First credential" means a certificate awarded by the state board to an eligible student who meets the criteria described in Subsection (7).

(c)(i) "Industry-recognized credential" means a credential that is:

(A) developed and offered by, or endorsed by, a nationally recognized industry association or organization representing a sizable portion of the industry sector;

(B) sought or accepted by employers within the industry or sector as a recognized, preferred, or required credential for recruitment, screening, hiring, retention, or advancement purposes; and

(C) regularly reviewed, updated, and validated by the issuing body to ensure ongoing alignment with industry standards and labor market needs.

(ii) "Industry-recognized credential" may also include a credential offered through a catalyst center as described in Section 53E-3-507.1.

(d) "Master credential list" means the list of approved industry-recognized credentials maintained by the state board in accordance with this section.

(e) "Program" means the first credential program described in this section.

- 6659 (f) "Technical college" means the same as that term is defined in Section [~~53B-1-101.5~~]
6660 53H-1-101.
- 6661 (2) The commissioner of higher education, the state superintendent of public instruction,
6662 and the governor's education advisor shall establish the First Credential Oversight
6663 Committee comprised of:
- 6664 (a) representatives from industries, including:
- 6665 (i) members of professional associations or trade groups; and
6666 (ii) employers from high-demand sectors as the state board determines in
6667 collaboration with the Utah Board of Higher Education and the Department of
6668 Workforce Services;
- 6669 (b) representatives from education including:
- 6670 (i) members from the state board;
6671 (ii) the director of the Catalyst Center Grant Program described in Section
6672 53E-3-507.1;
6673 (iii) LEA administrators, such as a superintendent or charter school director;
6674 (iv) professionals from institutions of higher education, including technical colleges;
6675 (v) career and technical education specialists; and
6676 (vi) Talent Ready Utah; and
- 6677 (c) workforce development experts, including representatives from the Department of
6678 Workforce Services.
- 6679 (3) The state board shall staff the First Credential Oversight Committee.
- 6680 (4) The First Credential Oversight Committee shall develop a first credential master plan,
6681 which shall include:
- 6682 (a) a framework for developing and maintaining the master credential list;
6683 (b) a comprehensive needs assessment framework that evaluates:
- 6684 (i) resources available through institutions of higher education, including:
- 6685 (A) faculty expertise and availability;
6686 (B) facilities and equipment;
6687 (C) existing certification programs; and
6688 (D) potential for program expansion;
- 6689 (ii) industry partnership opportunities, including:
- 6690 (A) geographical proximity to potential partners;
6691 (B) willingness of local industries to participate;
6692 (C) capacity for work-based learning placements; and

- 6693 (D) alignment between industry needs and educational capabilities; and
6694 (iii) general resource availability, including:
6695 (A) current funding streams and potential funding sources;
6696 (B) existing technology infrastructure;
6697 (C) qualified personnel and staffing needs; and
6698 (D) professional development requirements;
6699 (c) credential approval processes;
6700 (d) methods for ensuring industry demand alignment;
6701 (e) wage considerations for occupations associated with approved credentials;
6702 (f) clear definitions of industry-recognized credentials;
6703 (g) strategies for promoting stackability and sequencing of credentials;
6704 (h) approaches to ensure regional relevance of credentials;
6705 (i) mechanisms for collaboration between educational institutions, industry partners, and
6706 workforce development agencies;
6707 (j) strategies for continuous evaluation and improvement of the program;
6708 (k) the creation of a credentials review committee, including membership and duties;
6709 (l) in accordance with Subsection (17), an established framework of planning,
6710 implementation, and student outcome performance funding for an LEA administering
6711 first credential programming;
6712 (m) a weighted system for the master credential list that:
6713 (i) assigns higher values to credentials based on:
6714 (A) alignment with high-demand, high-wage occupations;
6715 (B) incorporation of multiple learning pathways, including coursework,
6716 apprenticeships, internships, work-based learning, and related service
6717 opportunities;
6718 (C) industry recognition and portability; and
6719 (D) stackability with other credentials or degrees; and
6720 (ii) uses the weighted values to:
6721 (A) determine incentive funding levels;
6722 (B) prioritize program expansion support; and
6723 (C) guide student career planning; and
6724 (n) guidelines for LEAs to procure industry-recognized certification program licenses,
6725 including:
6726 (i) verification that certifications appear on the master credential list;

- (ii) requirement for competency-based assessments in proctored environments;
- (iii) documentation of local industry endorsement; and
- (iv) alignment with state and federal computer science initiatives where applicable, including the Computer Science for Utah Grant Program described in Section [~~53B-34-106~~] 53H-13-306.

(5) In accordance with the Utah First Credential Master Plan, the state board shall:

- (a) ensure that the credentials review committee membership reflects a balance of perspectives and expertise;
- (b) develop an online application and submission system for credentialing organizations and providers to submit programs for inclusion in the master credential list;
- (c) establish and maintain the master credential list based on the recommendations of the credentials review committee;
- (d) develop clear mechanisms for students to understand how earning one credential can lead to higher-level certifications or degrees; and
- (e) foster partnerships between high schools, technical colleges, employers, and apprenticeship programs to ensure students have access to meaningful work-based learning opportunities.

(6) The state board shall:

- (a) automatically include on the initial master credential list any existing credential that:
 - (i) meets the definition of industry-recognized credential under this section; and
 - (ii) is currently recognized by the state board or Utah Board of Higher Education as of July 1, 2024; and
- (b) review all automatically included credentials within one year to ensure ongoing compliance with program requirements.

(7) The state board shall award a first credential certificate to an eligible student who completes one of the following:

- (a) concurrent enrollment courses, composed of:
 - (i) between 12 and 18 core general education credits, or as industry standards dictate, with courses from different general education categories; or
 - (ii) a prescribed set of courses as the Utah Board of Higher Education designates;
- (b) an industry-recognized credential included on the master credential list;
- (c) 300 hours of completion through a youth apprenticeship program that:
 - (i) is described in Sections 35A-6-102 and 35A-6-104.5; and
 - (ii) includes courses that fulfill the requirements for an industry-recognized credential

6761 included on the master credential list;

6762 (d) completion of a technical college certificate; or

6763 (e) completion of a Career and Technical Education Pathway program.

6764 (8) The Utah Board of Higher Education shall ensure that credits earned for a first
6765 credential certificate are:

6766 (a) accepted and transferable to institutions of higher education, including technical
6767 colleges;

6768 (b) applicable towards relevant degree programs; and

6769 (c) recognized by relevant industries as adequate preparation for employment.

6770 (9) Subject to legislative appropriations, the Utah Board of Higher Education shall award a
6771 first credential scholarship to each student who earns a first credential certificate.

6772 (10) The first credential scholarship may be used at the following institutions:

6773 (a) ~~[a degree-granting institution of higher education or a technical college within the~~
6774 ~~state system of higher education, as identified in Subsection 53B-2-101(1)]~~ an
6775 institution of higher education as defined in Section 53H-1-101; or

6776 (b) a private, nonprofit college or university in the state that is accredited by the
6777 Northwest Commission on Colleges and Universities.

6778 (11) The Utah Board of Higher Education shall annually determine the first credential
6779 scholarship amount based on:

6780 (a) the number of eligible students; and

6781 (b) appropriations made by the Legislature.

6782 (12) A student may use the first credential scholarship for:

6783 (a) tuition and fees;

6784 (b) books and supplies; or

6785 (c) other educational expenses as the Utah Board of Higher Education determines.

6786 (13) The Utah Board of Higher Education shall ensure the scholarship is valid for use
6787 within three years from the date the student graduates from high school.

6788 (14) A student may earn the first credential scholarship in addition to any other
6789 state-sponsored scholarships for which the student may be eligible.

6790 (15) The first credential oversight committee shall present the master plan described in
6791 Subsection (4) to the Education Interim Committee by the November 2025 interim
6792 committee meeting.

6793 (16) Every three years, the First Credential Oversight Committee shall:

6794 (a) review the Utah First Credential Master Plan;

- 6795 (b) as needed, create a list of recommendations and update the Utah First Credential
6796 Master Plan;
- 6797 (c) report the list of recommendations and the updated Utah First Credential Master Plan
6798 to:
- 6799 (i) the state board;
- 6800 (ii) the Utah Board of Higher Education;
- 6801 (iii) the Department of Workforce Services;
- 6802 (iv) the Education Interim Committee; and
- 6803 (v) the Economic Development and Workforce Services Interim Committee.
- 6804 (17)(a) The state board shall administer a first credential grant program for an LEA and
6805 award a grant in accordance with the following process.
- 6806 (b) The First Credential Oversight Committee shall establish:
- 6807 (i) a needs assessment tool that evaluates:
- 6808 (A) an LEA's current first credential offering;
- 6809 (B) an LEA's capacity to develop or expand a first credential pathway;
- 6810 (C) resources and support needed for a first credential program, including
6811 resources available through institutions of higher education, industry
6812 partnership opportunities, and general resource availability; and
- 6813 (D) each potential barrier to implementation; and
- 6814 (ii) a continuum of need to place each applying LEA.
- 6815 (c) An LEA seeking a first credential grant shall submit to the First Credential Oversight
6816 Committee:
- 6817 (i) a completed needs assessment; and
- 6818 (ii) a grant application that contains:
- 6819 (A) current first credential data, including current credentials offered;
- 6820 (B) preliminary goals for creating or expanding first credential opportunities
6821 within the LEA; and
- 6822 (C) if applicable, plans for procurement of industry certification program licenses,
6823 including certification details and alignment with master credential list,
6824 documentation of employer endorsements, assessment and proctoring
6825 procedures, and integration with existing computer science programs.
- 6826 (d) The First Credential Oversight Committee shall:
- 6827 (i) review each submitted application and needs assessment;
- 6828 (ii) assign the LEA a placement on the continuum of need; and

(iii) provide to the LEA a specific requirement for an implementation plan based on:

(A) the LEA's continuum placement;

(B) each identified area for growth;

(C) each available resource; and

(D) each additional factor the First Credential Oversight Committee determines relevant.

(e) An LEA shall submit to the First Credential Oversight Committee an implementation plan that includes:

(i) specific goals for expanding a first credential opportunity;

(ii) each implementation step and timeline;

(iii) a detailed cost projection; and

(iv) each additional element the committee requires based on the needs assessment results.

(f) The First Credential Oversight Committee shall:

(i) review the implementation plan;

(ii) direct technical assistance to the LEA in accordance with the LEA's implementation plan;

(iii) provide feedback to the LEA to improve the implementation plan;

(iv) approve each implementation plan that meets the established criteria; and

(v) award an implementation grant for each approved plan.

(g) Subject to legislative appropriations, the state board shall:

(i) award an incentive grant to an LEA that:

(A) has implemented an approved plan;

(B) increases the number of students who earn a first credential certificate; and

(C) achieves each established implementation goal; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the First Credential Oversight Committee, establish by rule:

(A) tiers for incentive grant awards;

(B) performance metrics for continued funding;

(C) reporting requirements for a grant recipient;

(D) requirements for reporting certification program outcomes and industry alignment;

(E) procedures for coordinating with computer science initiative grants; and

(F) guidelines for certification program procurement and implementation.

(18) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Utah Board of Higher Education and the Department of Workforce Services, the state board shall make rules to implement the provisions of this section.

Section 94. Section **53E-10-706** is amended to read:

53E-10-706 (Effective upon governor's approval). Electronic resources -- Research clearinghouse.

(1) The state board shall publish a ULEAD website containing information provided by the director as described in this part.

(2) The director shall within two years of appointment:

(a) develop and maintain a research clearinghouse publicly available through the website described in Subsection (1); and

(b) include in the research clearinghouse:

(i) research on K-12 education, including peer-reviewed research;

(ii) information on K-12 education innovation and best practices;

(iii) an index and explanation of academic, state, federal, or other K-12 education research repositories;

(iv) K-12 education research and policy briefs generated by Utah public and private institutions of higher education, including participating institutions, categorized and searchable by topic;

(v) access points to and explanation of currently available K-12 education data, including data managed by the Utah Data Research Center created in Section [~~53B-33-201~~] 53H-15-202 and data maintained by the state board;

(vi) other K-12 education information as determined by the director, including information regarding efforts by institutions or other individuals to promote innovative and effective education practices in Utah; and

(vii) each innovative practice report prepared by ULEAD, categorized and searchable by topic, location of the studied LEA, and socioeconomic and demographic profile.

(3) The director shall publish:

(a) as identified in ULEAD research and reports, an electronic directory of:

(i) K-12 education experts; and

(ii) LEAs described in Subsection 53E-10-703(5)(b); and

- 6897 (b) a monthly report to LEAs, via electronic channels provided by the state board,
6898 highlighting ULEAD activities and soliciting proposals from education practitioners
6899 for ULEAD research and reports.
- 6900 (4) The director may provide electronic seminars or forums for professional learning
6901 regarding subjects of ULEAD research and reports to K-12 practitioners.
- 6902 Section 95. Section **53E-10-707** is amended to read:
- 6903 **53E-10-707 (Effective upon governor's approval). ULEAD Steering Committee.**
- 6904 (1)(a) There is created the ULEAD Steering Committee.
- 6905 (b) The member described in Subsection (2)(b) and the member described in Subsection
6906 (2)(e) are the co-chairs of the steering committee.
- 6907 (2) The steering committee shall consist of the following members each appointed for a
6908 term of two years:
- 6909 (a) the director;
- 6910 (b) one member of the state board appointed by the chair of the state board;
- 6911 (c) the state superintendent or the state superintendent's designee;
- 6912 (d) the staff director of the State Charter School Board or the director's designee;
- 6913 (e) one member appointed by the office of the governor;
- 6914 (f) one member, appointed by the director, who is a superintendent of a school district;
- 6915 (g) one member, appointed by the director, of a local school board;
- 6916 (h) two principals or other public school leaders of public schools that are not charter
6917 schools, appointed by the director;
- 6918 (i) one principal or other public school leader of charter schools, appointed by the
6919 director;
- 6920 (j) two educators who hold a current license under Chapter 6, Education Professional
6921 Licensure, nominated by LEA leaders and appointed by the director; and
- 6922 (k) one member representing citizens or business, nominated by the members of the
6923 public and appointed by the director.
- 6924 (3)(a) A member of the steering committee may be appointed for more than one term.
- 6925 (b) If a midterm vacancy occurs on the steering committee, the appointing individual, as
6926 described in Subsection (2), for the vacant position shall appoint an individual for the
6927 remainder of the term.
- 6928 (4)(a) The steering committee shall hold a meeting at least quarterly on dates chosen by
6929 the co-chairs, in consultation with the director.
- 6930 (b) The state board shall provide physical space for the steering committee to meet, or a

6931 means to participate in a meeting remotely.

6932 (5) The steering committee shall:

6933 (a) discuss prospective and current ULEAD projects and findings;

6934 (b) consult with and make recommendations to the director to prioritize ULEAD reports
6935 and areas of focused research;

6936 (c) facilitate connections between the director and Utah's political, business, education
6937 technology, and academic communities;

6938 (d) make recommendations to improve gathering, retaining, and disseminating education
6939 data and research and evaluation findings for use by participating institutions and
6940 other education policy researchers, including data managed by the Utah Data
6941 Research Center created in Section ~~[53B-33-201]~~ 53H-15-202; and

6942 (e) annually vote on and establish steering committee priorities for ULEAD.

6943 (6) In order to determine research priorities for ULEAD, the director shall consult with:

6944 (a) members of the Legislature responsible for public education;

6945 (b) members of Utah professional education associations, including principals and LEA
6946 governing board members; and

6947 (c) policy-research centers based in Utah.

6948 (7) The state board or state superintendent may request that the director arrange with a
6949 participating institution to prepare a report on a specific LEA or area of practice meeting
6950 the criteria established in this part.

6951 (8) A member of the steering committee may not receive compensation except a member
6952 who is a legislator shall receive compensation for travel and other expense
6953 reimbursements in accordance with Section 36-2-2.

6954 (9) The steering committee shall hold a meeting described in this section in accordance
6955 with Title 52, Chapter 4, Open and Public Meetings Act.

6956 Section 96. Section **53F-2-415** is amended to read:

6957 **53F-2-415 (Effective upon governor's approval). Student health and counseling**
6958 **support -- Qualifying personnel -- Distribution formula -- Rulemaking.**

6959 (1) As used in this section:

6960 (a) "Behavioral health support personnel" means an individual who:

6961 (i) works under the direct supervision of qualifying personnel to:

6962 (A) support and track a student's progress and access to and completion of school
6963 curriculum; and

6964 (B) support students by prompting, redirecting, encouraging, and reinforcing

- 6965 positive behaviors;
- 6966 (ii) is not certified or licensed in mental health; and
- 6967 (iii) meets the professional qualifications as defined by state board rule[;] .
- 6968 (b) "Qualifying personnel" means a school counselor or other counselor, a school
- 6969 psychologist or other psychologist, a school social worker or other social worker, or a
- 6970 school nurse who:
- 6971 (i) is licensed; and
- 6972 (ii) collaborates with educators and a student's parent on:
- 6973 (A) early identification and intervention of the student's academic and mental
- 6974 health needs; and
- 6975 (B) removing barriers to learning and developing skills and behaviors critical for
- 6976 the student's academic achievement.
- 6977 (c) "Telehealth services" means the same as that term is defined in Section 26B-4-704.
- 6978 (2)(a) Subject to legislative appropriations, and in accordance with Subsection (2)(b),
- 6979 the state board shall distribute money appropriated under this section to LEAs to
- 6980 provide targeted school-based mental health support, including clinical services and
- 6981 trauma-informed care, through:
- 6982 (i) employing qualifying personnel;
- 6983 (ii) employing behavioral health support personnel; or
- 6984 (iii) entering into contracts for services provided by qualifying personnel, including
- 6985 telehealth services.
- 6986 (b)(i) The state board shall, after consulting with LEA governing boards, develop a
- 6987 formula to distribute money appropriated under this section to LEAs.
- 6988 (ii) The state board shall ensure that the formula described in Subsection (2)(b)(i)
- 6989 incentivizes an LEA to provide school-based mental health support in
- 6990 collaboration with the local mental health authority of the county in which the
- 6991 LEA is located.
- 6992 (iii) The state board shall provide guidance for LEAs regarding the training,
- 6993 qualifications, roles, and scopes of practice for qualifying personnel and
- 6994 behavioral health support personnel that incorporates parent consent and
- 6995 partnership as key components in addressing the mental health and behavioral
- 6996 health needs of students.
- 6997 (3) To qualify for money under this section, an LEA shall submit to the state board a plan
- 6998 that includes:

- 6999 (a) measurable goals approved by the LEA governing board on improving student
7000 safety, student engagement, school climate, or academic achievement;
- 7001 (b) how the LEA intends to meet the goals described in Subsection (3)(a) through the
7002 use of the money;
- 7003 (c) how the LEA is meeting the requirements related to parent education described in
7004 Section 53G-9-703; and
- 7005 (d) whether the LEA intends to provide school-based mental health support in
7006 collaboration with the local mental health authority of the county in which the LEA is
7007 located.
- 7008 (4) The state board shall distribute money appropriated under this section to an LEA that
7009 qualifies under Subsection (3), based on the formula described in Subsection (2)(b).
- 7010 (5) An LEA may not use money distributed by the state board under this section to supplant
7011 federal, state, or local money previously allocated to:
- 7012 (a) employ qualifying personnel;
- 7013 (b) employ behavioral health support personnel; or
- 7014 (c) enter into contracts for services provided by qualified personnel, including telehealth
7015 services.
- 7016 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
7017 state board shall make rules that establish:
- 7018 (a) procedures for submitting a plan for and distributing money under this section;
- 7019 (b) the formula the state board will use to distribute money to LEAs described in
7020 Subsection (2)(b); and
- 7021 (c) in accordance with Subsection (7), annual reporting requirements for an LEA that
7022 receives money under this section.
- 7023 (7) An LEA that receives money under this section shall submit an annual report to the state
7024 board, including:
- 7025 (a) progress toward achieving the goals submitted under Subsection (3)(a);
- 7026 (b) if the LEA discontinues a qualifying personnel position or a behavioral health
7027 support personnel position, the LEA's reason for discontinuing the positions; and
- 7028 (c) how the LEA, in providing school-based mental health support, complies with the
7029 provisions of Section 53E-9-203.
- 7030 (8) Beginning on or before July 1, 2019, the state board shall provide training that instructs
7031 school personnel on the impact of childhood trauma on student learning, including
7032 information advising educators against practicing medicine, giving a diagnosis, or

7033 providing treatment.

7034 (9) The state board may use up to:

7035 (a) 2% of an appropriation under this section for costs related to the administration of
7036 the provisions of this section; and

7037 (b) \$1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described
7038 in this section to provide scholarships for up to four years to certain LEA employees,
7039 as defined by the state board, for education and training to become a school social
7040 worker, a school psychologist, or other school-based mental health worker.

7041 (10) Notwithstanding the provisions of this section, money appropriated under this section
7042 may be used, as determined by the state board, for:

7043 (a) the SafeUT Crisis Line described in Section [~~53B-17-1202~~] 53H-4-210;

7044 (b)(i) youth suicide prevention programs described in Section 53G-9-702 [-]; or

7045 (ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525; or

7046 (c) providing grants to LEAs as provided in Subsection 53F-2-522(5).

7047 Section 97. Section **53F-2-502** is amended to read:

7048 **53F-2-502 (Effective upon governor's approval). Dual language immersion.**

7049 (1) As used in this section:

7050 (a) "Dual language immersion" means an instructional setting in which a student
7051 receives a portion of instruction in English and a portion of instruction exclusively in
7052 a partner language.

7053 (b) "Local education agency" or "LEA" means a school district or a charter school.

7054 (c) "Participating LEA" means an LEA selected by the state board to receive a grant
7055 described in this section.

7056 (d) "Partner language" means a language other than English in which instruction is
7057 provided in dual language immersion.

7058 (e) "Restricted foreign entity" means the same as that term is defined in Section [
7059 ~~53B-1-201~~] 53H-8-501.

7060 (2) The state board shall:

7061 (a) establish a dual language immersion program;

7062 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
7063 make rules that establish:

7064 (i) a grant program for an LEA to receive funding for dual language immersion;

7065 (ii) the required qualifications for an LEA to be a participating LEA;

7066 (iii) subject to this section, requirements of a participating LEA;

- 7067 (iv) a proficiency assessment for each partner language; and
7068 (v) a progression of how a school in a participating LEA adds grade levels in which
7069 the school offers dual language immersion; and
7070 (c) subject to legislative appropriations:
7071 (i) select participating LEAs; and
7072 (ii) award to a participating LEA a grant to support dual language immersion in the
7073 LEA.
- 7074 (3) A participating LEA shall:
7075 (a) establish in a school a full-day dual language immersion instructional model that
7076 provides at least 50% of instruction exclusively in a partner language;
7077 (b) in accordance with the state board rules described in Subsection (2)(b), add grades in
7078 which dual language immersion is provided in a school; and
7079 (c) annually administer to each student in grades 3 through 8 who participates in dual
7080 language immersion an assessment described in Subsection (2)(b)(iv).
- 7081 (4) The state board shall:
7082 (a) provide support to a participating LEA, including by:
7083 (i) offering professional learning for dual language immersion educators;
7084 (ii) developing curriculum related to dual language immersion; or
7085 (iii) providing instructional support for a partner language;
7086 (b) conduct a program evaluation of the dual language immersion program established
7087 under Subsection (2)(a); and
7088 (c) on or before November 1, 2019, report to the Education Interim Committee and the
7089 Public Education Appropriations Subcommittee on the results of the program
7090 evaluation described in Subsection (4)(b).
- 7091 (5) The state board may, in accordance with Title 63G, Chapter 6a, Utah Procurement Code,
7092 contract with a third party to conduct the program evaluation described in Subsection
7093 (4)(b).
- 7094 (6) Regardless of whether an LEA is a participating LEA or provides language instruction
7095 through another method, beginning July 1, 2024, an LEA may not seek or accept
7096 funding support from a restricted foreign entity or an entity that passes on funding
7097 support from a restricted foreign entity.
- 7098 (7) Subject to budget constraints, in addition to the base increases described in Section
7099 53F-2-208, the Legislature shall annually increase the money appropriated for dual
7100 language immersion in proportion to the percentage increase over the previous school

7101 year in the value of the weighted pupil unit.

7102 Section 98. Section **53F-2-510** is amended to read:

7103 **53F-2-510 (Effective upon governor's approval). Digital Teaching and Learning**
7104 **Grant Program.**

7105 (1) As used in this section:

7106 (a) "Advisory committee" means the committee established by the state board under
7107 Subsection (6)(b).

7108 (b) "Digital readiness assessment" means an assessment provided by the state board that:

7109 (i) is completed by an LEA analyzing an LEA's readiness to incorporate
7110 comprehensive digital teaching and learning; and

7111 (ii) informs the preparation of an LEA's plan for incorporating comprehensive digital
7112 teaching and learning.

7113 (c) "High quality professional learning" means the professional learning standards
7114 described in Section 53G-11-303.

7115 (d) "Implementation assessment" means an assessment that analyzes an LEA's
7116 implementation of an LEA plan, including identifying areas for improvement,
7117 obstacles to implementation, progress toward the achievement of stated goals, and
7118 recommendations going forward.

7119 (e) "LEA plan" means an LEA's plan to implement a digital teaching and learning
7120 program that meets the requirements of this section and requirements set forth by the
7121 state board and the advisory committee.

7122 (f) "Program" means the Digital Teaching and Learning Grant Program created and
7123 described in Subsections (5) through (10).

7124 (g) "Utah Education and Telehealth Network" or "UETN" means the Utah Education
7125 and Telehealth Network created in Section [53B-17-105] 53H-4-213.4.

7126 (2)(a) The state board shall establish a digital teaching and learning task force to develop
7127 a funding proposal to present to the Legislature for digital teaching and learning in
7128 elementary and secondary schools.

7129 (b) The digital teaching and learning task force shall include representatives of:

7130 (i) the state board;

7131 (ii) UETN;

7132 (iii) LEAs; and

7133 (iv) the Governor's Education Excellence Commission.

7134 (3) As funding allows, the state board shall develop a master plan for a statewide digital

- 7135 teaching and learning program, including the following:
- 7136 (a) a statement of purpose that describes the objectives or goals the state board will
- 7137 accomplish by implementing a digital teaching and learning program;
- 7138 (b) a forecast for fundamental components needed to implement a digital teaching and
- 7139 learning program, including a forecast for:
- 7140 (i) student and teacher devices;
- 7141 (ii) Wi-Fi and wireless compatible technology;
- 7142 (iii) curriculum software;
- 7143 (iv) assessment solutions;
- 7144 (v) technical support;
- 7145 (vi) change management of LEAs;
- 7146 (vii) high quality professional learning;
- 7147 (viii) Internet delivery and capacity; and
- 7148 (ix) security and privacy of users;
- 7149 (c) a determination of the requirements for:
- 7150 (i) statewide technology infrastructure; and
- 7151 (ii) local LEA technology infrastructure;
- 7152 (d) standards for high quality professional learning related to implementing and
- 7153 maintaining a digital teaching and learning program;
- 7154 (e) a statewide technical support plan that will guide the implementation and
- 7155 maintenance of a digital teaching and learning program, including standards and
- 7156 competency requirements for technical support personnel;
- 7157 (f)(i) a grant program for LEAs; or
- 7158 (ii) a distribution formula to fund LEA digital teaching and learning programs;
- 7159 (g) in consultation with UETN, an inventory of the state public education system's
- 7160 current technology resources and other items and a plan to integrate those resources
- 7161 into a digital teaching and learning program;
- 7162 (h) an ongoing evaluation process that is overseen by the state board;
- 7163 (i) proposed rules that incorporate the principles of the master plan into the state's public
- 7164 education system as a whole; and
- 7165 (j) a plan to ensure long-term sustainability that:
- 7166 (i) accounts for the financial impacts of a digital teaching and learning program; and
- 7167 (ii) facilitates the redirection of LEA savings that arise from implementing a digital
- 7168 teaching and learning program.

- 7169 (4) UETN shall:
- 7170 (a) in consultation with the state board, conduct an inventory of the state public
- 7171 education system's current technology resources and other items as determined by
- 7172 UETN, including software;
- 7173 (b) perform an engineering study to determine the technology infrastructure needs of the
- 7174 public education system to implement a digital teaching and learning program,
- 7175 including the infrastructure needed for the state board, UETN, and LEAs; and
- 7176 (c) as funding allows, provide infrastructure and technology support for school districts
- 7177 and charter schools.
- 7178 (5) There is created the Digital Teaching and Learning Grant Program to improve
- 7179 educational outcomes in public schools by effectively incorporating comprehensive
- 7180 digital teaching and learning technology.
- 7181 (6) The state board shall:
- 7182 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 7183 adopt rules for the administration of the program, including rules requiring:
- 7184 (i) an LEA to complete a digital readiness assessment the first time an LEA applies
- 7185 for the grant;
- 7186 (ii) measures to ensure that the LEA monitors and implements technology with best
- 7187 practices; and
- 7188 (iii) robust goals for learning outcomes and appropriate measurements of goal
- 7189 achievement;
- 7190 (b) establish an advisory committee to make recommendations on the program and LEA
- 7191 plan requirements and report to the state board; and
- 7192 (c) in accordance with this section, approve LEA plans and award grants.
- 7193 (7)(a) The state board shall, subject to legislative appropriations, award a grant to an
- 7194 LEA:
- 7195 (i) that submits an LEA plan that meets the requirements described in Subsection (8);
- 7196 and
- 7197 (ii) for which the LEA's leadership and management members have completed a
- 7198 digital teaching and learning leadership and implementation training as provided
- 7199 in Subsection (7)(b).
- 7200 (b) The state board or its designee shall provide the training described in Subsection
- 7201 (7)(a)(ii).
- 7202 (8) The state board shall establish requirements of an LEA plan that shall include:

- 7203 (a) the results of the LEA's digital readiness assessment and a proposal to remedy an
7204 obstacle to implementation or other issues identified in the assessment;
- 7205 (b) high quality professional learning for educators in the use of digital teaching and
7206 learning technology;
- 7207 (c) leadership training and management restructuring, if necessary, for successful
7208 implementation;
- 7209 (d) targets for improved student achievement, student learning, and college readiness
7210 through digital teaching and learning; and
- 7211 (e) any other requirement established by the state board in rule made in accordance with
7212 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including an application
7213 process and metrics to analyze the quality of a proposed LEA plan.
- 7214 (9) The state board or the state board's designee shall establish an interactive dashboard
7215 available to each LEA that is awarded a grant for the LEA to track and report the LEA's
7216 long-term, intermediate, and direct outcomes in real time and for the LEA to use to
7217 create customized reports.
- 7218 (10)(a) There is no federal funding, federal requirement, federal education agreement, or
7219 national program included or related to this state adopted program.
- 7220 (b) Any inclusion of federal funding, federal requirement, federal education agreement,
7221 or national program shall require separate express approval as provided in Title 53E,
7222 Chapter 3, Part 8, Implementing Federal or National Education Programs.
- 7223 (11) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board
7224 shall contract with an independent evaluator to:
- 7225 (a) support each LEA that receives a grant as part of the program to complete an
7226 implementation assessment for each year that the LEA participates;
- 7227 (b) report the findings of an implementation assessment to the state board; and
- 7228 (c) submit to the state board recommendations to resolve issues that an implementation
7229 assessment raises.
- 7230 (12) The state board or the state board's designee shall review an implementation
7231 assessment and review each participating LEA's progress from the previous year, as
7232 applicable.
- 7233 (13) The state board shall establish interventions for an LEA that does not make progress
7234 on implementation of the LEA's implementation plan, including:
- 7235 (a) nonrenewal of, or time period extensions for, the LEA's grant;
- 7236 (b) reduction of funds; or

(c) other interventions to assist the LEA.

(14)(a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the state board, the state board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection (14)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection (14)(b), the state board shall pay the balance due to UETN from the LEA's funds received under Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection (14)(b)(ii) or (14)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection (14)(b)(ii) or (14)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 99. Section **53F-2-526** is amended to read:

53F-2-526 (Effective upon governor's approval). Excellence in Education and Leadership Supplement.

(1) As used in this section:

(a) "Center" means the Center for the School of the Future at Utah State University

- 7271 established in ~~[Section 53B-18-801]~~ Section 53H-3-304.
- 7272 (b) "Eligible teacher" means a teacher who is a top-performing teacher that the center
7273 determines using an LEA's assessment methods, including:
7274 (i) student growth or achievement measures;
7275 (ii) professional evaluations;
7276 (iii) parent or student surveys; and
7277 (iv) other data-driven criteria the LEA establishes and the center verifies for validity.
- 7278 (c) "Eligible teacher" includes an individual whom an LEA participating in the program
7279 employs and who holds:
7280 (i) a license the state board issues; and
7281 (ii) a position that includes a current classroom teaching assignment.
- 7282 (d) "High poverty school" means the same as ~~[the]~~ that term is defined in Section
7283 53F-2-513.
- 7284 (e) "LEA" means:
7285 (i) a school district;
7286 (ii) a charter school;
7287 (iii) the Utah Schools for the Deaf and the Blind; and
7288 (iv) a regional education service agency.
- 7289 (f) "Program" means the Excellence in Education and Leadership Supplement created in
7290 Subsection (2).
- 7291 (g) "Tier performance level" means the following levels of performance for a teacher in
7292 comparison to all teachers the center determines in accordance with Subsection (7):
7293 (i) the top 5% of teachers;
7294 (ii) the next 6%-10% of teachers; and
7295 (iii) the next 11%-25% of teachers.
- 7296 (h) "Top-performing" means the top 25% of teachers in comparison to all teachers the
7297 center determines using the methods described in Subsection (1)(b).
- 7298 (2) Beginning July 1, 2024, there is created a five-year pilot program known as the
7299 Excellence in Education and Leadership Supplement to provide a performance-based
7300 award to an eligible teacher in recognition for outstanding instructional talent.
- 7301 (3)(a) No later than December 31, 2024, an LEA shall declare the LEA's intent to
7302 participate in the program to the center.
- 7303 (b) If an LEA declares an intent to participate in the program, the LEA shall:
7304 (i) develop a process for a school principal or the principal's designee to assess a

7305 teacher's performance consistent with this section to determine if a teacher is an
7306 eligible teacher, including the corresponding tier performance level; and

7307 (ii) create an appeals process for an employee who is not nominated to be an eligible
7308 teacher.

7309 (4) No later than July 1, 2025, an LEA shall:

7310 (a) attend a training that the center creates regarding the guidelines for developing a
7311 process described in Subsection (3); and

7312 (b) develop and submit for approval the LEA's process described in Subsection (3) to the
7313 center.

7314 (5)(a) The center shall review the LEA's process described in Subsection (3) and

7315 approve the process or request that the LEA make changes to the submitted process.

7316 (b) If the center requests changes to the LEA's submitted process, the LEA shall work
7317 with the center to make necessary changes to receive final approval from the center.

7318 (c) No later than August 15, 2025, the center shall provide final approval or denial of an
7319 LEA's process.

7320 (6) Before August 31, 2025, an LEA with an approved process as described in Subsection
7321 (5) shall:

7322 (a) ensure each school principal or the principal's designee attends a training that the
7323 center creates regarding:

7324 (i) how to effectively use the LEA's approved process to select and submit to the
7325 center nominations for eligible teachers, including the corresponding tier
7326 performance level; and

7327 (ii) how to protect student and educator data privacy when submitting nominations
7328 and applications, as described in Subsection (9)(b)(ii);

7329 (b) provide information to teachers within the LEA regarding the program and how the
7330 school's principal or principal's designee will use the approved LEA process to make
7331 nominations of eligible teachers; and

7332 (c) ensure each school principal or the principal's designee is able to use the LEA's
7333 approved process to evaluate and select which teachers within the school to nominate
7334 as eligible teachers, including the corresponding tier performance level.

7335 (7) In assessing if a nominated teacher is an eligible teacher, the center shall create an
7336 assessment process that:

7337 (a) uses the methods described in Subsection (1)(b);

7338 (b) calibrates the submissions an LEA submits to determine, for all nominated teachers

- 7339 statewide, which teachers are eligible teachers, including the corresponding tier
7340 performance level;
- 7341 (c) may use additional criteria as determined by the center in consultation with
7342 participating LEAs; and
- 7343 (d) establishes a scoring rubric including the scores required for a designation in each
7344 tier performance level.
- 7345 (8)(a) The center shall collaborate with LEAs to create:
- 7346 (i) selection and submission guidelines for:
- 7347 (A) the approval of the LEA's process as described in Subsection (5); and
7348 (B) the list of nominated eligible teachers described in Subsection (6);
- 7349 (ii) methods to determine student growth and achievement measures for subject areas
7350 that do not have standardized assessment data;
- 7351 (iii) the weightings for each element of the assessment process described in
7352 Subsection (7); and
- 7353 (iv) the trainings described in this section.
- 7354 (b) In addition to the requirements in Subsection (8)(a), an LEA may include the
7355 following if the LEA collaborates with the center to do so:
- 7356 (i) methods to determine student growth and achievement measures for subject areas
7357 that have standardized assessment data; and
- 7358 (ii) methods for combining measures described in Subsections (8)(a)(ii) and (8)(b)(i)
7359 as appropriate to assure compatibility across all subject areas.
- 7360 (c) The center may provide program related technical assistance to an LEA.
- 7361 (9)(a) An LEA shall:
- 7362 (i) apply to the center on behalf of the nominated eligible teachers within the LEA
7363 through a process and format that the center determines; and
- 7364 (ii) ensure a school principal or the principal's designee reevaluates an eligible
7365 teacher's designation under this section every three years.
- 7366 (b) The center shall:
- 7367 (i) create an application process for an LEA to submit the list of nominated eligible
7368 teachers described in Subsection (9)(a), including a deadline for submission of the
7369 list of nominated teachers to the center;
- 7370 (ii) coordinate with the state board in the creation of the application process described
7371 in Subsection (9)(b)(i) to ensure that any sharing of student and educator data
7372 during the application process:

- 7373 (A) complies with the Family Educational Rights and Privacy Act, 34 C.F.R. Part
7374 99;
- 7375 (B) complies with Title 53E, Chapter 9, Student Privacy and Data Protection; and
7376 (C) uses disclosure avoidance techniques, including aggregating and otherwise
7377 de-identifying data;
- 7378 (iii) no later than October 1, 2026, determine if a nominated teacher is an eligible
7379 teacher through the process described in Subsection (7);
- 7380 (iv) verify:
- 7381 (A) the validity of the LEA's process and assessment of an eligible teacher as
7382 described in Subsections (4) and (5); and
- 7383 (B) the nominations described in Subsection (7) with the LEA and school
7384 administrators;
- 7385 (v) certify a list of eligible teachers, including the total amount of funding the LEA
7386 receives for the LEA's eligible teachers; and
- 7387 (vi) provide the list described in Subsection (9)(b)(v) to the state board.
- 7388 (10)(a) Subject to legislative appropriations, the state board shall:
- 7389 (i) within 45 days of receiving the list described in Subsection (9)(b)(v) from the
7390 center, disburse funding to an LEA in the amount the center verifies that an LEA
7391 qualifies to receive for performance-based awards under this section;
- 7392 (ii) allocate up to 4.25% of the funds appropriated under this section to the center; and
- 7393 (iii) develop a method to compensate an LEA for program administration that:
- 7394 (A) does not exceed 4% of the total funds appropriated under this section;
- 7395 (B) first compensates an LEA for fixed efforts associated with development and
7396 management of the LEA's teacher performance-based award program; and
- 7397 (C) allocates any remaining balance to compensate an LEA for variable efforts
7398 associated with ongoing program administration and management.
- 7399 (b) The annual performance-based award for an eligible teacher is:
- 7400 (i) \$10,000 for a teacher in the top 5% of teachers;
- 7401 (ii) \$5,000 for a teacher in the next 6%-10% of teachers; and
- 7402 (iii) \$2,000 for a teacher in the next 11%-25% of teachers.
- 7403 (c) If the eligible teacher is employed at a high poverty school, the eligible teacher shall
7404 receive an additional performance-based award that is equal in amount to the eligible
7405 teacher's performance-based award described in Subsection (10)(b).
- 7406 (11)(a) An LEA shall:

- 7407 (i) within 45 days of receiving the LEA's funds from the state board for all eligible
7408 teachers, use the program funds to provide a performance-based award equal to
7409 the amount specified in Subsection (10) for each eligible teacher in each tier
7410 performance level; and
- 7411 (ii) provide the performance-based award in an eligible teacher's regularly occurring
7412 compensation in equal amounts through the contracted school years related to the
7413 performance-based award.
- 7414 (b) An LEA:
- 7415 (i) may use money appropriated to the LEA for the performance-based award for
7416 employer-paid benefits;
- 7417 (ii) may not include a performance-based award received under this section:
- 7418 (A) in a retirement calculation; or
- 7419 (B) as part of retirement contributions; and
- 7420 (iii) may not reduce an eligible teacher's award to ensure the LEA maintains the
7421 funds described in Subsection (10)(a)(iii).
- 7422 (c) The performance-based award is not part of an eligible teacher's base pay, and is
7423 subject to the eligible teacher's designation as an eligible teacher.
- 7424 (12) Except as provided for in Subsection (11), if the appropriation for the program is
7425 insufficient to cover the costs associated with performance-based awards, an LEA may
7426 distribute the funds to each eligible teacher of the same tier of performance level on a
7427 pro rata basis.
- 7428 (13)(a)(i) In accordance with state and federal privacy laws, the state board shall
7429 provide the following data to the center:
- 7430 (A) relevant student achievement data;
- 7431 (B) relevant teacher data; and
- 7432 (C) any other relevant data as the center determines.
- 7433 (ii) If the center needs data from a non-participating LEA for purposes of the
7434 program, the state board:
- 7435 (A) shall provide the data; and
- 7436 (B) may provide the data in a de-identified manner, including providing an
7437 individual teacher's or student's data with a unique identifier that is not
7438 associated with the teacher's or student's name or school provided identification
7439 number.
- 7440 (b) The state board shall:

- 7441 (i) consult with the center; and
- 7442 (ii) contract with a third party to obtain and house a secure web-based portal for
- 7443 authorized LEA and state board users to:
- 7444 (A) allow a teacher to track the teacher's students' academic achievement and
- 7445 growth and assess within the teacher's LEA the teacher's individual progress
- 7446 toward becoming an eligible teacher nominee;
- 7447 (B) report results of the chosen model or models at the district, school, and subject
- 7448 or grade levels;
- 7449 (C) provide diagnostic data showing the growth and achievement trends for
- 7450 different groups of students associated with a teacher, school, charter system,
- 7451 or district; and
- 7452 (D) provide resources for teachers to interpret the model results, training modules,
- 7453 and receive or request technical support.
- 7454 (c) The state board shall use up to 2.5% of the total funds appropriated under this section
- 7455 for the web-based access portal described in Subsection (13)(b).
- 7456 (14)(a) An eligible teacher that receives a performance-based award under the program
- 7457 has no vested property right in the performance-based award or the designation as an
- 7458 eligible teacher.
- 7459 (b) An eligible teacher's performance-based award and designation under this section are
- 7460 void if the school principal or principal's designee, LEA, or the center made or
- 7461 certified the designation improperly.
- 7462 (15)(a) Subject to prioritization of the Audit Subcommittee, unless the state board
- 7463 contracts a private auditor in accordance with Subsection (15)(b), the Office of the
- 7464 Legislative Auditor General established under Section 36-12-15 shall, in any fiscal
- 7465 year:
- 7466 (i) conduct an audit of the program including:
- 7467 (A) an evaluation of the implementation of the program; and
- 7468 (B) the efficacy of the program, including program outcomes; and
- 7469 (ii) prepare and submit a written report for an audit described in this section in
- 7470 accordance with Subsection 36-12-15(6)(b).
- 7471 (b) Subject to legislative appropriations, the state board may contract with an external
- 7472 auditor to perform the audit described in this Subsection (15).
- 7473 (16)(a) The center shall report to the Education Interim Committee no later than the
- 7474 2024 October meeting the following:

- 7475 (i) the methodology and process the center develops to achieve the requirements of
7476 Subsection (7);
- 7477 (ii) relevant data and updates resulting from the collaborations described in
7478 Subsection (8);
- 7479 (iii) any recommendations for future legislation; and
- 7480 (iv) data regarding performance-based award programs, including:
- 7481 (A) different approaches used to reward teacher performance, including different
7482 evaluation methods;
- 7483 (B) research outlining the effectiveness and impact of different performance-based
7484 award amounts on teacher retention; and
- 7485 (C) other considerations for impactful performance-based award programs in
7486 relation to teacher retention.
- 7487 (b) Beginning November 1, 2026, the center shall provide an annual report to the
7488 Education Interim Committee regarding:
- 7489 (i) the statewide metrics used in accordance with Subsection (7);
- 7490 (ii) de-identified and aggregated data showing the number of:
- 7491 (A) performance-based awards per school, including total number of eligible
7492 teachers in each school;
- 7493 (B) eligible teachers in high poverty schools;
- 7494 (C) eligible teachers in each tier performance level;
- 7495 (D) eligible teachers in subject areas that do not have standardized assessments;
7496 and
- 7497 (E) performance-based award denials per school, including the reasons for a
7498 denial;
- 7499 (iii) proportion of eligible teachers in:
- 7500 (A) school districts; and
- 7501 (B) charter schools; and
- 7502 (iv) teacher retention data for a school where an eligible teacher is employed.
- 7503 Section 100. Section **53F-4-504** is amended to read:
- 7504 **53F-4-504 (Effective upon governor's approval). Authorized online course**
7505 **providers -- Certified online course providers.**
- 7506 (1) The following entities are known as an authorized online course provider and may offer
7507 online courses to eligible students through the Statewide Online Education Program:
- 7508 (a) a school within an LEA created exclusively for the purpose of serving students

- 7509 online;
- 7510 (b) an LEA program, approved by the LEA governing board, that is created exclusively
- 7511 for the purpose of serving students online;
- 7512 (c) a program of an institution of higher education listed in Section [~~53B-2-101~~]
- 7513 53H-1-102 that:
- 7514 (i) offers secondary school level courses; and
- 7515 (ii) is created exclusively for the purpose of serving students online; and
- 7516 (d) a certified online course provider.
- 7517 (2) The state board shall approve an online course provider as a certified online course
- 7518 provider if the online course provider:
- 7519 (a) complies with the application procedures described in Section 53F-4-514;
- 7520 (b) meets the standards described in Section 53F-4-514; and
- 7521 (c) has prior experience offering online courses to secondary students.
- 7522 (3) The state board may revoke the approval described in Subsection (2) if the state board:
- 7523 (a) finds that a certified online course provider is not complying with the requirements
- 7524 described in Section 53F-4-514;
- 7525 (b) provides written notice describing the findings of non-compliance to the certified
- 7526 online course provider;
- 7527 (c) provides the certified online course provider with at least 60 days to remedy the
- 7528 findings of non-compliance;
- 7529 (d) reevaluates the findings of non-compliance at least 60 days after the certified online
- 7530 course provider's remedy period described in Subsection (3)(c); and
- 7531 (e) finds after reevaluation that the certified online course provider has failed to
- 7532 satisfactorily remedy the findings of non-compliance.
- 7533 Section 101. Section **53F-5-223** is amended to read:
- 7534 **53F-5-223 (Effective upon governor's approval). Stipends for Future Educators**
- 7535 **Grant Program.**
- 7536 (1) As used in this section:
- 7537 (a) "Eligible student teacher" means a student teacher who:
- 7538 (i) is enrolled in an educator preparation program that leads to a professional level
- 7539 educator license, regardless of whether the student teacher is enrolled at [~~a state~~] an
- 7540 institution described in Section [~~53B-1-102~~] 53H-1-102, or another public or
- 7541 private institution within the state or another state;
- 7542 (ii) works at an LEA within the state as a full-time student teacher to meet the

educator preparation program requirements; and

(iii) signs an affidavit demonstrating the student teacher's intent to work in Utah and pursue a Utah professional level educator license.

(b) "License" means the same as that term is defined in Section 53E-6-102.

(c) "Program" means the Stipends for Future Educators Grant Program described in Subsection (2).

(2) This section creates the Stipends for Future Educators Grant Program.

(3) Subject to legislative appropriations, the state board shall award a grant to an eligible student teacher who:

(a) submits an application to the state board;

(b) is enrolled and in good standing in an educator preparation program leading to a Utah professional level educator license;

(c) seeks to obtain the student teacher's first Utah professional level educator license;

(d) has not received a grant award under the program or funding from another state program regarding the student teaching; and

(e) does not receive compensation during the student teaching experience from:

(i) an LEA, unless the eligible student teacher works as a substitute teacher or in an extracurricular activity;

(ii) a work service program offered through the Department of Workforce Services; or

(iii) the Grow Your Own Educator Pipeline Program as described in Section 53F-5-218.

(4) The state board shall determine the amount of the grant award.

(5) The state board may, subject to legislative appropriations and the number of applicants:

(a) reduce the amount of the grant award; and

(b) distribute grant awards on a pro rata basis.

Section 102. Section **53F-5-501** is amended to read:

53F-5-501 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Blended learning" means a formal education program in which a student learns:

(a) at least in part, through online learning with some element of student control over time, place, path, and pace;

(b) at least in part, in a supervised brick-and-mortar location away from home; and

(c) in a program in which the modalities along each student's learning path within a course or subject are connected to provide an integrated learning experience.

- 7577 (2) "Extended learning" means learning opportunities outside of a traditional school
7578 structure, including:
- 7579 (a) online learning available anywhere, anytime;
- 7580 (b) career-based experiences, including internships and job shadowing;
- 7581 (c) community-based projects; and
- 7582 (d) off-site postsecondary learning.
- 7583 (3) "Grant program" means the Personalized, Competency-Based Learning Grants Program
7584 created in this part.
- 7585 (4) "Institution of higher education" means an institution listed in Section [53B-1-102]
7586 53H-1-102.
- 7587 (5) "Personalized, competency-based learning" means a system of learning in which the
7588 following principles influence the daily actions of the educational community:
- 7589 (a) students are empowered daily to make important decisions about the students'
7590 learning experiences, how the students will create and apply knowledge, and how
7591 students will demonstrate the students' learning;
- 7592 (b) assessment is a meaningful, positive, and empowering learning experience for
7593 students that yields timely, relevant, and actionable evidence;
- 7594 (c) students receive timely, differentiated support based on the students' individual
7595 learning needs;
- 7596 (d) students progress based on evidence of mastery rather than by hours of attendance;
- 7597 (e) students learn actively using different pathways and varied pacing;
- 7598 (f) strategies to ensure equity for all students are embedded in the culture, structure, and
7599 pedagogy of schools and education systems; and
- 7600 (g) rigorous, common expectations for learning, including knowledge, skills, and
7601 dispositions, are explicit, transparent, measurable, and transferable.
- 7602 (6) "Review committee" means the committee established under Section 53F-5-502.
- 7603 (7) "STEM" means science, technology, engineering, and mathematics.
- 7604 Section 103. Section **53F-6-401** is amended to read:
- 7605 **53F-6-401 (Effective upon governor's approval). Definitions.**
- 7606 As used in this part:
- 7607 (1) "Contract administrator" means the state board's appointed Deputy Superintendent of
7608 Operations that ensures the program manager or financial administrator meets
7609 contractual obligations.
- 7610 (2) "Contract oversight and compliance" means the oversight and coordination functions

performed by the Department of Operations contract administrator, including:

- (a) establishing and maintaining program standards within a contract with a program manager or financial administrator;
- (b) determining operational requirements and structures;
- (c) procuring and managing contracts for program services and standards;
- (d) ensuring program integrity through direct or contracted oversight;
- (e) coordinating program functions and contracted services with a program manager or financial administrator; and
- (f) maintaining appropriate separation between government oversight and independent program operations.

(3) "Contracted entity" means:

(a) an organization that:

- (i) contracts with the state board under Section 53F-6-404 to perform duties and functions necessary for program administration and operations;
- (ii) is not affiliated with any international organization;
- (iii) does not harvest data for the purpose of reproducing or distributing the data to other entities;
- (iv) is not involved in guiding or directing any curriculum or curriculum standards; and
- (v) performs the specific duties and functions assigned in the contract with the state board.

(b) "Contracted entity" includes:

- (i) the program manager, unless the program manager is the Department of Operations for any duration of time;
- (ii) the financial administrator; and
- (iii) any other entity contracted to perform program functions under Section 53F-6-404.

(c) "Contracted entity" does not include:

- (i) a qualifying provider;
- (ii) an eligible school; or
- (iii) an eligible service provider.

(4)(a) "Contracted entity employee" means an individual working for an entity contracted under Section 53F-6-404 in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship

7645 funds.

7646 (b) "Contracted entity employee" does not include:

7647 (i) an individual who volunteers for a contracted entity or for a qualifying provider;

7648 (ii) an individual who works for a qualifying provider; or

7649 (iii) a qualifying provider.

7650 (5) "Contracted entity officer" means:

7651 (a) a member of the board of a contracted entity; or

7652 (b) the chief administrative officer of a contracted entity.

7653 (6) "Department of Operations" means the section of the state board that oversees financial
7654 operations, procurement operations, data and statistics operations, school land trust, and
7655 information technology operations for the state board.

7656 (7)(a) "Educational supplements" means:

7657 (i) materials, tools, and equipment that:

7658 (A) are directly related to and necessary for subjects aligned with the core
7659 standards the state board establishes pursuant to Section 53E-4-202;

7660 (B) are used for specific learning objectives or competencies;

7661 (C) support structured learning activities or lessons; and

7662 (D) are consumable or non-reusable in nature;

7663 (ii) supplemental learning materials that:

7664 (A) directly support or enhance the delivery of instruction in core academic
7665 subjects;

7666 (B) are tied to specific educational goals or outcomes; and

7667 (C) are not primarily for entertainment or general enrichment purposes;

7668 (iii) arts and music education materials that:

7669 (A) align with state core standards; and

7670 (B) are used in structured arts or music instruction; and

7671 (iv) other educational materials that the program manager determines are:

7672 (A) necessary for meeting specific learning objectives;

7673 (B) appropriate for the student's age or grade level; and

7674 (C) primarily educational rather than recreational in nature.

7675 (b) "Educational supplements" does not include:

7676 (i) entertainment materials;

7677 (ii) recreational equipment;

7678 (iii) food or nutritional items;

- 7679 (iv) furniture or household items;
7680 (v) general office supplies not specific to an educational activity; or
7681 (vi) other items that do not have a clear, direct educational purpose aligned with
7682 academic instruction.
- 7683 (8) "Eligible student" means a student:
7684 (a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;
7685 (b) who is a primary resident of the state, including a child of a military service member,
7686 as that term is defined in Section ~~[53B-8-102]~~ 53H-11-202;
7687 (c) who, during the school year for which the student is applying for a scholarship
7688 account:
7689 (i) does not receive a scholarship under:
7690 (A) the Carson Smith Scholarship Program established in Section 53F-4-302; or
7691 (B) the Carson Smith Opportunity Scholarship Program established in Section
7692 53E-7-402; and
7693 (ii) before receiving the scholarship is not enrolled in:
7694 (A) an LEA; or
7695 (B) the Statewide Online Education Program to participate in a course with
7696 funding provided under Chapter 4, Part 5, Statewide Online Education
7697 Program, which does not include participation in a course by an entity as
7698 described in Subsection 53F-6-409(7);
7699 (d) whose eligibility is not suspended or disqualified under Section 53F-6-401;
7700 (e) who completes, to maintain eligibility, the portfolio requirement described in
7701 Subsection 53F-6-402(3)(d);
7702 (f) who provides verification of primary residence in Utah, including a parent's utility
7703 bill, mortgage statement, lease agreement, or property tax records from the current
7704 calendar year in which the eligible student is renewing, reapplying, or applying for
7705 the scholarship for the first time; and
7706 (g) for out-of-state military families, who attests that the student is not enrolled in a
7707 public school elsewhere while receiving the scholarship.
- 7708 (9) "Federal poverty level" means the United States poverty level as defined by the most
7709 recently revised poverty income guidelines published by the United States Department
7710 of Health and Human Services in the Federal Register.
- 7711 (10)(a) "Financial administrator" means an organization that:
7712 (i) is not affiliated with any international organization;

- 7713 (ii) does not harvest data for the purpose of reproducing or distributing the data to
7714 other entities;
- 7715 (iii) is not involved in guiding or directing any curriculum or curriculum standards;
7716 and
- 7717 (iv) contracts with the state board to administer scholarship payments in accordance
7718 with this part.
- 7719 (b) "Financial administrator" may include an organization that serves as both program
7720 manager and financial administrator if the organization maintains appropriate
7721 separation of duties and meets all qualifications for both roles.
- 7722 (11)(a) "Home-based scholarship student" means a student who:
- 7723 (i) is eligible to participate in public school, in kindergarten or grades 1 through 12;
7724 (ii) attests to being exited from enrollment in a public school to attend a home-based
7725 learning environment if the student was enrolled at any time in a public school;
7726 and
- 7727 (iii) receives a benefit of scholarship funds.
- 7728 (b) "Home-based scholarship student" does not mean a home-based student who does
7729 not receive a scholarship under the program.
- 7730 (12) "Household income" means:
- 7731 (a) the combined gross income of all parents residing in the same household as the
7732 eligible student;
- 7733 (b) the gross income of a single parent who claims the student as a dependent; or
7734 (c) the gross income of a parent who claims the student as a dependent under the terms
7735 of a joint custody agreement.
- 7736 (13) "Parent" means:
- 7737 (a) the same as that term is defined in Section 53E-1-102; and
7738 (b) a foster parent who has initiated a process to adopt the foster child.
- 7739 (14) "Primary residence" means the one location where an individual resides for the
7740 majority of the year.
- 7741 (15) "Private school" means a full-time, tuition-bearing educational institution where the
7742 student receives the majority of the student's academic instruction.
- 7743 (16)(a) "Program manager" means a contracted entity or entities that:
- 7744 (i) perform program operational functions outlined in the procurement agreement
7745 described in Section 53F-6-404, including:
7746 (A) processing scholarship applications and eligibility determinations;

- 7747 (B) maintaining scholarship account records;
7748 (C) coordinating with qualifying providers and the financial administrator; and
7749 (D) providing customer service to program participants;
7750 (ii) in accordance with required program administration, implement established
7751 program standards and procedures; and
7752 (iii) perform other operational duties as specified in the contract.
7753 (b) "Program manager" may include an organization that serves as both program
7754 manager and financial administrator if the organization maintains appropriate
7755 separation of duties and meets all qualifications for both roles.
7756 (17)(a) "Qualifying provider" means one of the following entities:
7757 (i) an eligible school that the program manager approves in accordance with Section
7758 53F-6-408; or
7759 (ii) an eligible service provider that the program manager approves in accordance
7760 with Section 53F-6-409.
7761 (b) "Qualifying provider" does not include:
7762 (i) a parent of a home-based scholarship student solely in relation to the parent's
7763 child; or
7764 (ii) any other individual that does not meet the requirements described in Subsection
7765 (17)(a).
7766 (18) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle,
7767 aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
7768 sister-in-law, son-in-law, or daughter-in-law.
7769 (19) "Scholarship account" means the account to which a program manager allocates funds
7770 for the payment of approved scholarship expenses in accordance with this part.
7771 (20)(a) "Scholarship expense" means an expense described in Section 53F-6-402 that a
7772 parent or scholarship student incurs in the education of the scholarship student for a
7773 service or goods that a qualifying provider provides, including:
7774 (i) tuition and fees of a qualifying provider;
7775 (ii) fees and instructional materials at a technical college;
7776 (iii) tutoring services;
7777 (iv) fees for after-school or summer education programs;
7778 (v) textbooks, curricula, or other instructional materials, including any supplemental
7779 materials or associated online instruction that a curriculum or a qualifying
7780 provider recommends;

- 7781 (vi) educational software and applications;
- 7782 (vii) supplies or other equipment related to a scholarship student's educational needs;
- 7783 (viii) computer hardware or other technological devices that are intended primarily
- 7784 for a scholarship student's educational needs, not to exceed once every three years
- 7785 for a scholarship student;
- 7786 (ix) fees for the following examinations, or for a preparation course for the following
- 7787 examinations, that the program manager approves:
- 7788 (A) a national norm-referenced or standardized assessment described in Section
- 7789 53F-6-410, an advanced placement examination, or another similar assessment;
- 7790 (B) a state-recognized industry certification examination; and
- 7791 (C) an examination related to college or university admission;
- 7792 (x) educational services for students with disabilities from a licensed or accredited
- 7793 practitioner or provider, including occupational, behavioral, physical, audiology,
- 7794 or speech-language therapies;
- 7795 (xi) contracted services that the program manager approves and that an LEA provider
- 7796 offers, including individual classes, after-school tutoring services, transportation,
- 7797 or fees or costs associated with participation in extracurricular activities;
- 7798 (xii) ride fees or fares for a fee-for-service transportation provider to transport the
- 7799 scholarship student to and from a qualifying provider, not to exceed \$750 in a
- 7800 given school year;
- 7801 (xiii) in accordance with Subsection (20)(c), expenses related to extracurricular
- 7802 activities, field trips, educational supplements, physical education experiences,
- 7803 and other educational experiences;
- 7804 (xiv) coursework or an educational supplement for arts and music that aligns with
- 7805 state core standards;
- 7806 (xv) a musical instrument rental, excluding purchase; or
- 7807 (xvi) any other expense for a good or service that:
- 7808 (A) a parent or scholarship student incurs in the education of the scholarship
- 7809 student; and
- 7810 (B) the program manager approves.
- 7811 (b) "Scholarship expense" does not include:
- 7812 (i) chaperone expenses, except that a family with one or more scholarship students
- 7813 receiving the scholarship under Subsection 53F-6-402(2)(c) may use scholarship
- 7814 funds for one chaperone expense or pass per family, regardless of how many

- 7815 scholarship students are in the family or household;
- 7816 (ii) season tickets or subscriptions to entertainment venues;
- 7817 (iii) ski passes or lift tickets;
- 7818 (iv) access to recreational facilities unless for physical education of the student;
- 7819 (v) playground equipment;
- 7820 (vi) the purchase of any type of:
- 7821 (A) furniture; or
- 7822 (B) a musical instrument;
- 7823 (vii) apparel; and
- 7824 (viii) other non-educational expenses as the program manager determines.
- 7825 (c)(i) A scholarship expense for extracurricular activities may not exceed 20% of the
- 7826 total scholarship amount.
- 7827 (ii) A scholarship expense for physical education requirements may not exceed an
- 7828 additional 20% of the total scholarship amount from the amount described in
- 7829 Subsection (20)(c)(i).
- 7830 (iii) A scholarship expense for arts and music described in Subsection (20)(a)(xiv) is
- 7831 not an extracurricular activity.
- 7832 (21) "Scholarship funds" means:
- 7833 (a) funds that the Legislature appropriates for the program; and
- 7834 (b) interest that scholarship funds accrue.
- 7835 (22)(a) "Scholarship student" means an eligible student, including a home-based
- 7836 scholarship student, for whom the program manager establishes and maintains a
- 7837 scholarship account in accordance with this part.
- 7838 (b) "Scholarship student" does not include a home-based student who does not receive a
- 7839 scholarship award under the program.
- 7840 (23) "Utah Fits All Scholarship Program" or "program" means the scholarship program
- 7841 established in Section 53F-6-402.
- 7842 Section 104. Section **53G-1-103** is amended to read:
- 7843 **53G-1-103 (Effective upon governor's approval). Definitions.**
- 7844 As used in this title:
- 7845 (1) "DOD civilian" means the same as that term is defined in Section [53B-8-102]
- 7846 53H-11-202.
- 7847 (2) "Electronic cigarette product" means the same as that term is defined in Section
- 7848 76-9-1101.

(3) "Military service member" means the same as that term is defined in Section [53B-8-102] 53H-11-202.

Section 105. Section **53G-2-104** is amended to read:

53G-2-104 (Effective upon governor's approval). Prohibition on the use of certain training in public education -- Exceptions.

(1) As used in this section:

(a) "Prohibited training" means a mandatory instructional program and related materials that an LEA requires the LEA's employees, prospective employees, students, or prospective students, to attend that promote prohibited discriminatory practices as that term is defined in Section [53B-1-118] 53H-1-504.

(b) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(2) An LEA may not require prohibited training.

(3) Nothing in this section limits or prohibits an LEA's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(4) If the state board identifies a reported violation of this section, the state board shall provide an update to the Education Interim Committee on an LEA's compliance with this section at or before the Education Interim Committee's November interim committee meeting.

(5) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.

Section 106. Section **53G-2-105** is amended to read:

53G-2-105 (Effective upon governor's approval). Prohibited discriminatory practices -- Restrictions -- Reporting.

(1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section [53B-1-118] 53H-1-504.

(2) An LEA may not:

(a) engage in prohibited discriminatory practices;

(b) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(c) employ or assign an employee or a third-party whose duties for an institution include

7883 coordinating, creating, developing, designing, implementing, organizing, planning, or
7884 promoting policies, programming, training, practices, activities, and procedures
7885 relating to prohibited discriminatory practices.

7886 (3) An LEA shall ensure that all students have access to programs providing student
7887 success and support, as that term is defined in Section ~~[53B-1-118]~~ 53H-1-504.

7888 (4) Nothing in this section limits or prohibits an LEA's authority to establish policies that
7889 are necessary to comply with state or federal law, including laws relating to prohibited
7890 discrimination or harassment.

7891 (5) If the state board identifies a reported violation of this section, the state board shall
7892 provide an update to the Education Interim Committee and the Public Education
7893 Appropriations Subcommittee on an LEA's compliance with this section at or before the
7894 Education Interim Committee's November interim committee meeting.

7895 (6) An individual may bring a violation of this section to the state board in accordance with
7896 the process described in Section 53E-3-401.

7897 Section 107. Section **53G-5-102** is amended to read:

7898 **53G-5-102 (Effective upon governor's approval). Definitions.**

7899 As used in this chapter:

7900 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and
7901 includes:

- 7902 (a) cash;
- 7903 (b) stock or other investments;
- 7904 (c) real property;
- 7905 (d) equipment and supplies;
- 7906 (e) an ownership interest;
- 7907 (f) a license;
- 7908 (g) a cause of action; and
- 7909 (h) any similar property.

7910 (2) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205
7911 that authorizes a charter school.

7912 (3) "Institution of higher education board of trustees" or "board of trustees" means:

- 7913 (a) the board of trustees of:
 - 7914 (i) the University of Utah;
 - 7915 (ii) Utah State University;
 - 7916 (iii) Weber State University;

- 7917 (iv) Southern Utah University;
7918 (v) Snow College;
7919 (vi) Utah Tech University;
7920 (vii) Utah Valley University; or
7921 (viii) Salt Lake Community College;
7922 (b) a technical college board of trustees described in Section [53B-2a-108] 53H-3-205; or
7923 (c) a board of trustees of a private, nonprofit college or university in the state that is
7924 accredited by the Northwest Commission on Colleges and Universities.

7925 Section 108. Section **53G-5-306** is amended to read:

7926 **53G-5-306 (Effective upon governor's approval). Charter schools authorized by**
7927 **a board of trustees of a higher education institution -- Application process -- Board of**
7928 **trustees responsibilities.**

7929 (1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 may
7930 enter into an agreement with an institution of higher education board of trustees
7931 authorizing the applicant to establish and operate a charter school.

7932 (2)(a) An applicant applying for authorization from a board of trustees to establish and
7933 operate a charter school shall provide a copy of the application to the local school
7934 board of the school district in which the proposed charter school will be located
7935 either before or at the same time the applicant files the application with the board of
7936 trustees.

7937 (b) The local school board may review the application and offer suggestions or
7938 recommendations to the applicant or the board of trustees before acting on the
7939 application.

7940 (c) The board of trustees shall give due consideration to suggestions or
7941 recommendations made by the local school board under Subsection (2)(b).

7942 (3) The state board shall make a rule providing a timeline for the opening of a charter
7943 school following the approval of a charter school application by a board of trustees.

7944 (4) After approval of a charter school application, the applicant and the board of trustees
7945 shall set forth the terms and conditions for the operation of the charter school in a
7946 written charter agreement.

7947 (5)(a) The school's charter agreement may include a provision that the charter school
7948 pay an annual fee for the board of trustees' costs in providing oversight of, and
7949 technical support to, the charter school in accordance with Section 53G-5-205.

7950 (b) In the first two years that a charter school is in operation, an annual fee described in

- 7951 Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school
7952 receives from the state in the current fiscal year.
- 7953 (c) Beginning with the third year that a charter school is in operation, an annual fee
7954 described in Subsection (5)(a) may not exceed the product of 1% of the revenue a
7955 charter school receives from the state in the current fiscal year.
- 7956 (d) An annual fee described in Subsection (5)(a) shall be:
7957 (i) paid to the board of trustees; and
7958 (ii) expended as directed by the board of trustees.
- 7959 (6)(a) In addition to complying with the requirements of this section, a technical college
7960 board of trustees, as [defined] described in Section [~~53B-2a-108~~] 53H-3-205, shall
7961 obtain the approval of the Utah Board of Higher Education before entering into an
7962 agreement to establish and operate a charter school.
- 7963 (b) If a technical college board of trustees approves an application to establish and
7964 operate a charter school, the technical college board of trustees shall submit the
7965 application to the Utah Board of Higher Education.
- 7966 (c) The Utah Board of Higher Education shall, by majority vote, within 60 days of
7967 receipt of an application described in Subsection (6)(b), approve or deny the
7968 application.
- 7969 (d) The Utah Board of Higher Education may deny an application approved by a
7970 technical college board of trustees if the proposed charter school does not accomplish
7971 a purpose of charter schools as provided in Section 53G-5-104.
- 7972 (e) A charter school application may not be denied on the basis that the establishment of
7973 the charter school will have any or all of the following impacts on a public school,
7974 including another charter school:
7975 (i) an enrollment decline;
7976 (ii) a decrease in funding; or
7977 (iii) a modification of programs or services.
- 7978 (7)(a) Subject to the requirements of this chapter and other related provisions, a
7979 technical college board of trustees may establish:
7980 (i) procedures for submitting applications to establish and operate a charter school; or
7981 (ii) criteria for approval of an application to establish and operate a charter school.
- 7982 (b) The Utah Board of Higher Education may not establish policy governing the
7983 procedures or criteria described in Subsection (7)(a).
- 7984 (8) Before a technical college board of trustees accepts a charter school application, the

technical college board of trustees shall, in accordance with state board rules, establish and make public:

- (a) application requirements, in accordance with Section 53G-5-302;
- (b) the application process, including timelines, in accordance with this section; and
- (c) minimum academic, governance, operational, and financial standards.

Section 109. Section **53G-6-708** is amended to read:

53G-6-708 (Effective upon governor's approval). Career and technical education program alternatives.

- (1) A secondary student may attend a technical college described in Section ~~[53B-2a-105]~~ 53H-3-1202 if the secondary student's career and technical education goals are better achieved by attending a technical college as determined by:

- (a) the secondary student; and
- (b) if the secondary student is a minor, the secondary student's parent.

- (2) A secondary student served under this section by a technical college described in Section ~~[53B-2a-105]~~ 53H-3-1202 shall be counted in the average daily membership of the sending school district or charter school.

Section 110. Section **53G-7-227** is amended to read:

53G-7-227 (Effective upon governor's approval). Cellular device prohibition.

- (1) As used in this section:

- (a) "Cellphone" means a handheld, portable electronic device that is designed to be operated using one or both hands and is capable of transmitting and receiving voice, data, or text communication by means of:

- (i) a cellular network;
- (ii) a satellite network; or
- (iii) any other wireless technology.

- (b) "Cellphone" includes:

- (i) a smartphone;
- (ii) a feature phone;
- (iii) a mobile phone;
- (iv) a satellite phone; or
- (v) a personal digital assistant that incorporates capabilities similar to a smartphone, feature phone, mobile phone, or satellite phone.

- (c) "Classroom hours" means:

- (i) time during which a student receives scheduled, teacher-supervised instruction

- 8019 that occurs:
- 8020 (A) in a physical or virtual classroom setting;
- 8021 (B) during regular school operating hours; and
- 8022 (C) as part of an approved educational curriculum.
- 8023 (ii) "Classroom hours" does not include:
- 8024 (A) lunch periods;
- 8025 (B) recess;
- 8026 (C) transit time between classes;
- 8027 (D) study halls unless directly supervised by a qualified instructor;
- 8028 (E) after-school activities unless part of an approved extended learning program; or
- 8029 (F) independent study time occurring outside scheduled instruction.
- 8030 (d)(i) "Emerging technology" means any other device that has or will be able to act in
- 8031 place of or as an extension of an individual's cellphone.
- 8032 (ii) "Emerging technology" does not include school provided or required devices.
- 8033 (e) "Smart watch" means a wearable computing device that closely resembles a
- 8034 wristwatch or other time-keeping device with the capacity to act in place of or as an
- 8035 extension of an individual's cellphone.
- 8036 (f) "Smart watch" does not include a wearable device that can only:
- 8037 (i) tell time;
- 8038 (ii) monitor an individual's health informatics;
- 8039 (iii) receive and display notifications or information without the capability to
- 8040 respond; or
- 8041 (iv) track the individual's physical location.
- 8042 (2)(a) An LEA:
- 8043 (i) shall establish a policy that allows a student to use a cellphone, smart watch, or
- 8044 emerging technology:
- 8045 (A) to respond to an imminent threat to the health or safety of an individual;
- 8046 (B) to respond to a school-wide emergency;
- 8047 (C) to use the SafeUT Crisis Line described in [~~Title 53B, Chapter 17, Part 12,~~
- 8048 ~~SafeUT Crisis Line~~] Section 53H-4-210;
- 8049 (D) for a student's IEP or Section 504 accommodation plan; or
- 8050 (E) to address a medical necessity; and
- 8051 (ii) may establish a policy that provides for other circumstances when a student may
- 8052 use a cellphone, smart watch, or emerging technology.

(b) An LEA may establish policies that:

(i) extend restrictions on student use of cellphones, smart watches, or emerging technologies to non-classroom hours during the school day, including:

(A) lunch periods;

(B) transition times between classes; and

(C) other school-supervised activities; and

(ii) impose additional limitations on the use of cellphones, smart watches, or emerging technologies beyond those required by this section.

(3) Except as provided in Subsection (2), a student may not use a cellphone, smart watch, or emerging technology at a school during classroom hours.

(4) The state board may create one or more model policies regarding when a student may use a student's cellphone, smart watch, or emerging technology in a school during classroom hours consistent with this section.

Section 111. Section **53G-7-1101** is amended to read:

53G-7-1101 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Alignment" or "realignment" means the initial or subsequent act, respectively, of assigning a public school a classification or region.

(2) "Appeals panel" means the appeals panel created in Section 53G-7-1106.

(3)(a) "Association" means an organization that governs or regulates a student's participation in an athletic interscholastic activity.

(b) "Association" does not include an institution of higher education described in Section ~~[53B-1-102]~~ 53H-1-102.

(4) "Classification" means the designation of a school based on the size of the school's student enrollment population for purposes of interscholastic activities.

(5) "Eligibility" means eligibility to participate in an interscholastic activity regulated or governed by an association.

(6) "Governing body" means a body within an association that:

(a) is responsible for:

(i) adopting standards or policies that govern interscholastic activities or the administration of the association;

(ii) adopting or amending the association's governing document or bylaws;

(iii) enforcing the standards and policies of the association; and

(iv) adopting the association's budget; and

(b) has oversight of other boards, committees, councils, or bodies within the association.

(7) "Interscholastic activity" means an activity within the state in which:

(a) a student that participates represents the student's school in the activity; and

(b) the participating student is enrolled in grade 9, 10, 11, or 12.

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

(9) "Region" means a grouping of schools of the same classification for purposes of interscholastic activities.

Section 112. Section **53G-8-202** is amended to read:

53G-8-202 (Effective upon governor's approval). Public school discipline policies -- Basis of the policies -- Enforcement.

(1) The Legislature recognizes that every student in the public schools should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption.

(2)(a) To foster such an environment, each local school board or charter school governing board, with input from school employees, parents of students, students, and the community at large, shall adopt conduct and discipline policies for the public schools in accordance with Section 53G-8-211.

(b) A district or charter school shall base its policies on the principle that every student is expected:

(i) to follow accepted standards of conduct; and

(ii) to show respect for other people and to obey persons in authority at the school.

(c)(i) On or before September 1, 2015, the state board shall revise the conduct and discipline policy models for elementary and secondary public schools to include procedures for responding to reports received through the SafeUT Crisis Line under Subsection [~~53B-17-1202(3)~~] 53H-4-210(2)(c).

(ii) Each district or charter school shall use the models, where appropriate, in developing its conduct and discipline policies under this chapter.

(d) The policies shall emphasize that certain behavior, most particularly behavior which disrupts, is unacceptable and may result in disciplinary action.

(3) The local superintendent and designated employees of the district or charter school shall enforce the policies so that students demonstrating unacceptable behavior and their parents understand that such behavior will not be tolerated and will be dealt with in accordance with the district's conduct and discipline policies.

8121 Section 113. Section **53G-8-203** is amended to read:

8122 **53G-8-203 (Effective upon governor's approval). Conduct and discipline policies**
8123 **and procedures.**

8124 (1) The conduct and discipline policies required under Section 53G-8-202 shall include:

- 8125 (a) provisions governing student conduct, safety, and welfare;
- 8126 (b) standards and procedures for dealing with students who cause disruption in the
8127 classroom, on school grounds, on school vehicles, or in connection with
8128 school-related activities or events;
- 8129 (c) procedures for the development of remedial discipline plans for students who cause a
8130 disruption at any of the places referred to in Subsection (1)(b);
- 8131 (d) procedures for the use of reasonable and necessary physical restraint in dealing with
8132 students posing a danger to themselves or others, consistent with Section 53G-8-301;
- 8133 (e) standards and procedures for dealing with student conduct in locations other than
8134 those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:
- 8135 (i) the school;
- 8136 (ii) school property;
- 8137 (iii) a person associated with the school; or
- 8138 (iv) property associated with a person described in Subsection (1)(e)(iii);
- 8139 (f) procedures for the imposition of disciplinary sanctions, including suspension and
8140 expulsion;
- 8141 (g) specific provisions, consistent with Section 53E-3-509, for preventing and
8142 responding to gang-related activities in the school, on school grounds, on school
8143 vehicles, or in connection with school-related activities or events;
- 8144 (h) standards and procedures for dealing with habitual disruptive or unsafe student
8145 behavior in accordance with the provisions of this part; and
- 8146 (i) procedures for responding to reports received through the SafeUT Crisis Line under
8147 Subsection [~~53B-17-1202(3)~~] 53H-4-210(2)(c).

8148 (2)(a) Each local school board shall establish a policy on detaining students after regular
8149 school hours as a part of the district-wide discipline plan required under Section
8150 53G-8-202.

- 8151 (b)(i) The policy described in Subsection (2)(a) shall apply to elementary school
8152 students, grades kindergarten through 6.
- 8153 (ii) The local school board shall receive input from teachers, school administrators,
8154 and parents of the affected students before adopting the policy.

8155 (c) The policy described in Subsection (2)(a) shall provide for:

8156 (i) notice to the parent of a student prior to holding the student after school on a
8157 particular day; and

8158 (ii) exceptions to the notice provision if detention is necessary for the student's health
8159 or safety.

8160 (3)(a) Each LEA shall adopt a policy for responding to possession or use of electronic
8161 cigarette products by a student on school property.

8162 (b) The policy described in Subsection (3)(a) shall:

8163 (i) prohibit students from possessing or using electronic cigarette products on school
8164 property;

8165 (ii) include policies or procedures for the confiscation or surrender of electronic
8166 cigarette products; and

8167 (iii) require a school administrator or school administrator's designee to dispose of or
8168 destroy a confiscated electronic cigarette product.

8169 (c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic
8170 cigarette product to local law enforcement if:

8171 (i) a school official has a reasonable suspicion that a confiscated electronic cigarette
8172 product contains an illegal substance; and

8173 (ii) local law enforcement requests that the LEA release the confiscated electronic
8174 cigarette product to local law enforcement as part of an investigation or action.

8175 (4)(a) Each LEA shall adopt a policy for responding to when a student has committed a
8176 serious offense or sexual crime.

8177 (b) The policy described in Subsection (4)(a) shall:

8178 (i) address a serious offense or sexual misconduct related to hazing;

8179 (ii) distinguish procedures for when the crime occurs on school property and off of
8180 school property;

8181 (iii) if a student has committed a serious offense or sexual crime, provide a process
8182 for a school resource officer to provide input for the LEA to consider regarding
8183 the safety risks a student may pose upon reintegration;

8184 (iv) establish a process to inform a school resource officer of any student who is on
8185 probation;

8186 (v) create procedures for determining an alternative placement for a student if the
8187 student attends the same school as:

8188 (A) the victim of the student's crime; and

(B) an individual who has a protective order against the student; and

(vi) be compliant with state and federal law.

Section 114. Section **53G-9-703** is amended to read:

53G-9-703 (Effective upon governor's approval). Parent education -- Mental health -- Bullying -- Safety -- Video presentation regarding student use of technology.

(1)(a) Except as provided in Subsection (3), a school district shall offer a seminar for parents of students who attend school in the school district that:

(i) is offered at no cost to parents;

(ii)(A) if in person, begins at or after 6 p.m.;

(B) if in person, takes place on a Saturday; or

(C) may be conducted at anytime online and recorded if the recording is made available on the school district's website, including the parent portal created in Section 53G-6-806[-] ;

(iii)(A) is held in at least one school located in the school district; or

(B) is provided through a virtual platform; and

(iv) covers the topics described in Subsection (2).

(b)(i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop the district school's own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the state board under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The state board shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

- 8223 (iv) Internet safety, including pornography addiction;
- 8224 (v) the SafeUT Crisis Line established in Section ~~[53B-17-1202]~~ 53H-4-210; and
- 8225 (vi) resources related to the topics described in this Subsection (2); and
- 8226 (b) provide the curriculum, including resources and training, to school districts upon
- 8227 request.
- 8228 (3)(a) A school district is not required to offer the parent seminar if the local school
- 8229 board determines that the topics described in Subsection (2) are not of significant
- 8230 interest or value to families in the school district.
- 8231 (b) If a local school board chooses not to offer the parent seminar, the local school board
- 8232 shall notify the state board and provide the reasons why the local school board chose
- 8233 not to offer the parent seminar.
- 8234 (4)(a) The state board shall develop a brief video presentation that is directed at
- 8235 educating parents about potential safety and legal issues a student may encounter
- 8236 regarding the student's use of technology, including:
- 8237 (i) sharing personal data via social media and other means of communication; and
- 8238 (ii) creating or sharing sexual or nude images, both real and artificially produced.
- 8239 (b) The state board shall make the video presentation described in Subsection (4)(a)
- 8240 available to each school district so that the school district may provide the video
- 8241 presentation to parents within the school district.
- 8242 Section 115. Section **53G-9-902** is amended to read:
- 8243 **53G-9-902 (Effective upon governor's approval). Informed parental consent**
- 8244 **required -- Parental notification required.**
- 8245 (1) Except as provided in a student's IEP or Section 504 accommodation plan:
- 8246 (a) an individual who is not authorized personnel may not provide a restricted service;
- 8247 and
- 8248 (b) authorized personnel may not provide a restricted service:
- 8249 (i) outside the scope of the relevant license; or
- 8250 (ii) with other students present.
- 8251 (2) For authorized personnel to provide a restricted service:
- 8252 (a) the relevant LEA, school, or authorized personnel shall obtain informed written
- 8253 parental consent before the first session of a restricted service in a given school year,
- 8254 using a standard form that includes:
- 8255 (i) fields for at least the following information:
- 8256 (A) the name of the student;

- 8257 (B) the name of the individual giving informed consent; and
8258 (C) the name of each authorized personnel who has authority under the informed
8259 written consent to provide a restricted service;
- 8260 (ii) a statement that the authorized personnel will provide information about the
8261 restricted service in accordance with Subsection (2)(b), including that the parent
8262 has the right to opt out of receiving notifications at any time; and
- 8263 (iii) a statement that authorized personnel will adhere to the topics or issues the
8264 parent identifies, in collaboration with authorized personnel, for discussion or
8265 exclusion with the student under Subsection (3)(a), except that the authorized
8266 personnel may address topics if the omission would compromise the student's
8267 immediate safety, the omission would violate mandatory reporting obligations, or,
8268 based on behaviors or statements the authorized personnel observes, the
8269 authorized personnel determines a need to assess the student's safety; and
- 8270 (b) unless the student's parent opts out of receiving notifications from the authorized
8271 personnel under this Subsection (2)(b), within one business day after each session of
8272 a restricted service, the authorized personnel shall provide to the student's parent:
- 8273 (i) notice that the restricted service took place; and
8274 (ii) a description of the topic of the restricted service.
- 8275 (3)(a)(i) When obtaining the informed written parental consent described in
8276 Subsection (2)(a), the LEA, school, or authorized personnel shall, through
8277 consultation with the parent, provide the parent an opportunity to identify topics
8278 or issues the parent intends the authorized personnel to address or to not address
8279 with the student.
- 8280 (ii) Except as described in Subsection (3)(a)(iii), authorized personnel may not
8281 address a topic or issue for which a parent has expressly stated an intent for
8282 authorized personnel to not address with the student under this Subsection (3)(a).
- 8283 (iii) Subsection (3)(a)(ii) does not apply if:
- 8284 (A) an omission within a restricted service would compromise the student's
8285 immediate safety; or
- 8286 (B) the student discloses information that creates a duty on the authorized
8287 personnel to make a mandatory report for the purpose of discussing the
8288 information with the student to the extent necessary to make the report,
8289 including for suspected cases of child abuse or neglect under Section 80-2-602,
8290 abuse of a student under Section 53E-6-701, or any other legally mandated

duty to report an incident.

(b)(i) The requirement to obtain prior informed written parental consent before providing a restricted service described in Subsection (2)(a) does not apply in a case in which a delay to contact a parent would create an immediate serious risk of suicide or serious bodily injury, as defined in Section 76-1-101.5, to the student or to another individual.

(ii) For a circumstance described in Subsection (3)(b)(i), the LEA, school, or authorized personnel shall notify a parent in accordance with Section 53G-9-604.

(c) A student's IEP or Section 504 accommodation plan that includes a restricted service satisfies the informed parental consent requirement described in Subsection (2)(a).

(4)(a) The state board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the application of this section to the actions of educators and staff in the public education system.

(b) The state board shall, in consultation with the Department of Health and Human Services, provide guidance to authorized personnel, educators, and school support staff on conduct and practices that constitute and do not constitute a restricted service.

(5) Nothing in this part authorizes an individual to take an action that exceeds the scope of the individual's license or certification.

(6) This section does not apply to a service a student accesses through the SafeUT Crisis Line established in Section ~~[53B-17-1202]~~ 53H-4-210.

Section 116. Section **53G-11-303** is amended to read:

53G-11-303 (Effective upon governor's approval). Professional learning standards.

(1) As used in this section:

(a) "Evidence-based" means that a strategy, not including reading software, demonstrates a statistically significant effect, of at least a 0.40 effect size, on improving student outcomes based on:

(i) strong evidence from at least one well-designed and well-implemented experimental study, as the state board further defines; or

(ii) moderate evidence from at least one well-designed and well-implemented quasi-experimental study, as the state board further defines.

(b) "Evidence-informed" means that a strategy:

(i) is developed using high-quality research outside of a controlled setting in the given field, as the state board further defines; and

- 8325 (ii) includes strategies and activities with a strong scientific basis for use, as the state
8326 board further defines.
- 8327 (c) "Professional learning" means a comprehensive, sustained, and evidence-based
8328 approach to improving teachers' and principals' effectiveness in raising student
8329 achievement.
- 8330 (2) A school district or charter school shall implement high quality professional learning
8331 that meets the following standards:
- 8332 (a) professional learning occurs within learning communities committed to continuous
8333 improvement, individual and collective responsibility, and goal alignment;
- 8334 (b) professional learning requires skillful leaders who develop capacity, advocate, and
8335 create support systems, for professional learning;
- 8336 (c) professional learning requires prioritizing, monitoring, and coordinating resources
8337 for educator learning;
- 8338 (d) professional learning uses a variety of sources and types of student, educator, and
8339 system data to plan, assess, and evaluate professional learning;
- 8340 (e) professional learning integrates theories, research, and models of human learning to
8341 achieve its intended outcomes;
- 8342 (f) professional learning applies research on change and sustains support for
8343 implementation of professional learning for long-term change;
- 8344 (g) professional learning aligns its outcomes with:
- 8345 (i) performance standards for teachers and school administrators as described in rules
8346 of the state board; and
- 8347 (ii) performance standards for students as described in the core standards for Utah
8348 public schools adopted by the state board pursuant to Section 53E-4-202;
- 8349 (h) professional learning:
- 8350 (i) incorporates the use of technology in the design, implementation, and evaluation
8351 of high quality professional learning practices; and
- 8352 (ii) includes targeted professional learning on the use of technology devices to
8353 enhance the teaching and learning environment and the integration of technology
8354 in content delivery; and
- 8355 (i) professional learning uses evidence-informed core materials and evidence-based
8356 instructional practices and intervention materials.
- 8357 (3) School districts and charter schools shall use money appropriated by the Legislature for
8358 professional learning or federal grant money awarded for professional learning to

8359 implement professional learning that meets the standards specified in Subsection (2).

- 8360 (4) The state board, ULEAD, as that term is defined in Section 53E-10-701, and the Center
8361 for the School of the Future, established in [~~Section 53B-18-801~~] Section 53H-4-304,
8362 shall jointly, in collaboration with an independent university-based research center,
8363 develop and maintain a repository of evidence-based practice and evidence-informed
8364 intervention materials to support school districts and charter schools in meeting the
8365 standards described in Subsection (2).

8366 Section 117. Section **54-8b-10** is amended to read:

8367 **54-8b-10 (Effective upon governor's approval). Imposing a surcharge to provide**
8368 **deaf, hard of hearing, and speech impaired individuals with telecommunication devices --**
8369 **Definitions -- Procedures for establishing program -- Surcharge -- Administration and**
8370 **disposition of surcharge money.**

- 8371 (1) As used in this section:

8372 (a) "Certified deaf, hard of hearing, or severely speech impaired individual" means any
8373 state resident who:

8374 (i) is so certified by:

8375 (A) a licensed physician;

8376 (B) a licensed physician assistant;

8377 (C) an otolaryngologist;

8378 (D) a speech language pathologist;

8379 (E) an audiologist; or

8380 (F) a qualified state agency; and

8381 (ii) qualifies for assistance under any low income public assistance program
8382 administered by a state agency.

8383 (b) "Certified interpreter" means a person who is a certified interpreter under Title 35A,
8384 Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

8385 (c)(i) "Telecommunication device" means any mechanical adaptation device that
8386 enables a deaf, hard of hearing, or severely speech impaired individual to use the
8387 telephone.

8388 (ii) "Telecommunication device" includes:

8389 (A) telecommunication devices for the deaf (TDD);

8390 (B) telephone amplifiers;

8391 (C) telephone signal devices;

8392 (D) artificial larynxes; and

(E) adaptive equipment for TDD keyboard access.

- (2) The commission shall establish a program whereby a certified deaf, hard of hearing, or severely speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.
- (3)(a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf, hard of hearing, or severely speech impaired individual with a normal hearing individual by way of telecommunication devices designed for that purpose.
- (b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.
- (4) The commission shall cover the costs of the program described in this section from the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15.
- (5) In administering the program described in this section, the commission may use funds from the Universal Public Telecommunications Service Support Fund:
- (a) for the purchase, maintenance, repair, and distribution of telecommunication devices;
 - (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;
 - (c) for the general administration of the program;
 - (d) to train individuals in the use of telecommunications devices; and
 - (e) to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:
 - (i) an institution [~~within the state system~~] of higher education listed in Section [~~53B-1-102~~] 53H-1-102 for a program approved by the Utah Board of Higher Education that trains persons to qualify as certified interpreters; or
 - (ii) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.
- (6) The commission may create disbursement criteria and procedures by rule made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for administering funds under Subsection (5).
- (7) The commission shall solicit advice, counsel, and physical assistance from deaf, hard of hearing, or severely speech impaired individuals and the organizations serving deaf, hard of hearing, or severely speech impaired individuals in the design and implementation of the program.

Section 118. Section **57-21-3** is amended to read:

57-21-3 (Effective upon governor's approval). Exemptions -- Sale by private individuals -- Nonprofit organizations -- Noncommercial transactions.

(1) This chapter does not apply to a single-family dwelling unit sold or rented by its owner if:

(a) the owner does not own an interest in four or more single-family dwelling units held for sale or lease at the same time;

(b) during a 24-month period, the owner does not sell two or more single-family dwelling units in which the owner was not residing or was not the most recent resident at the time of sale;

(c) the owner does not retain or use the facilities or services of a real estate broker or salesperson; and

(d) the owner does not use a discriminatory housing practice under Subsection 57-21-5(2) in the sale or rental of the dwelling.

(2) This chapter does not apply to a dwelling or a temporary or permanent residence facility if:

(a) the discrimination is by sex, as defined in Section 68-3-12.5, sexual orientation, gender identity, or familial status for reasons of personal modesty or privacy, or in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; and

(b) the dwelling or the temporary or permanent residence facility is:

(i) operated by a nonprofit or charitable organization;

(ii) owned by, operated by, or under contract with a religious organization, a religious association, a religious educational institution, or a religious society;

(iii) owned by, operated by, or under contract with an affiliate of an entity described in Subsection (2)(b)(ii); or

(iv) owned by or operated by a person under contract with an entity described in Subsection (2)(b)(ii).

(3) This chapter, except for Subsection 57-21-5(2), does not apply to the rental of a room in a single-family dwelling by an owner-occupant of the single-family dwelling to another person if:

(a) the dwelling is designed for occupancy by four or fewer families; and

(b) the owner-occupant resides in one of the units.

(4)(a)(i) Unless membership in a religion is restricted by race, color, sex, or national origin, this chapter does not prohibit an entity described in Subsection (4)(a)(ii)

8461 from:

- 8462 (A) limiting the sale, rental, or occupancy of a dwelling or temporary or
8463 permanent residence facility the entity owns or operates for primarily
8464 noncommercial purposes to persons of the same religion; or
8465 (B) giving preference to persons of the same religion when selling, renting, or
8466 selecting occupants for a dwelling, or a temporary or permanent residence
8467 facility, the entity owns or operates for primarily noncommercial purposes.

8468 (ii) The following entities are entitled to the exemptions described in Subsection

8469 (4)(a)(i):

8470 (A) a religious organization, association, or society; or

8471 (B) a nonprofit institution or organization operated, supervised, or controlled by or
8472 in conjunction with a religious organization, association, or society.

8473 (b)(i) This chapter does not prohibit an entity described in Subsection (4)(b)(ii) from:

8474 (A) limiting the sale, rental, or occupancy of a dwelling, or a temporary or
8475 permanent residence facility, the entity owns or operates to persons of a
8476 particular religion, sex, sexual orientation, or gender identity; or

8477 (B) giving preference to persons of a particular religion, sex, sexual orientation, or
8478 gender identity when selling, renting, or selecting occupants for a dwelling, or
8479 a temporary or permanent residence facility, the entity owns or operates.

8480 (ii) The following entities are entitled to the exemptions described in Subsection

8481 (4)(b)(i):

8482 (A) an entity described in Subsection (4)(a)(ii); and

8483 (B) a person who owns a dwelling, or a temporary or permanent residence facility,
8484 that is under contract with an entity described in Subsection (4)(a)(ii).

8485 (5)(a) If the conditions of Subsection (5)(b) are met, this chapter does not prohibit a
8486 private club not open to the public, including a fraternity or sorority associated with
8487 an institution of higher education, from:

8488 (i) limiting the rental or occupancy of lodgings to members; or

8489 (ii) giving preference to its members.

8490 (b) This Subsection (5) applies only if the private club owns or operates the lodgings as
8491 an incident to its primary purpose and not for a commercial purpose.

8492 (6) This chapter does not prohibit distinctions based on inability to fulfill the terms and
8493 conditions, including financial obligations, of a lease, rental agreement, contract of
8494 purchase or sale, mortgage, trust deed, or other financing agreement.

- (7) This chapter does not prohibit a nonprofit educational institution, including a degree-granting institution of higher education listed in Subsection [53B-1-102(1)(a)] 53H-1-102(1)(a), from:
- (a) requiring its single students to live in a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution;
 - (b) segregating a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution on the basis of sex, as defined in Section 68-3-12.5, regardless of gender identity, or familial status or both:
 - (i) for reasons of personal modesty or privacy; or
 - (ii) in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; or
 - (c) otherwise assisting another person in making a dwelling, or a temporary or permanent residence facility, available to students on a sex-segregated basis as may be permitted by:
 - (i) regulations implementing the federal Fair Housing Amendments Act of 1988;
 - (ii) Title IX of the Education Amendments of 1972; or
 - (iii) other applicable law.
- (8) This chapter does not prohibit any reasonable local, state, or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling.
- (9) A provision of this chapter that pertains to familial status does not apply to the existence, development, sale, rental, advertisement, or financing of an apartment complex, condominium, or other housing development designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of 1968, as amended.
- Section 119. Section **58-1-102** is amended to read:
- 58-1-102 (Effective upon governor's approval). Definitions.**
- As used in this title:
- (1)(a) "Ablative procedure" means the same as that term is defined in Section 58-67-102.
 - (b) "Ablative procedure" does not include laser tattoo removal.
 - (2) "Cosmetic medical procedure":
 - (a) means the same as that term is defined in Section 58-67-102; and
 - (b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual

- 8529 licensed under this title if the individual's scope of practice includes the authority to
8530 operate or perform surgical procedures.
- 8531 (3) "Cryolipolysis" means a nonablative fat reduction procedure that uses cold temperature
8532 to reduce fat deposits in certain areas of the body.
- 8533 (4) "Department" means the Department of Commerce.
- 8534 (5) "Director" means the director of the Division of Professional Licensing.
- 8535 (6) "Division" means the Division of Professional Licensing created in Section 58-1-103.
- 8536 (7) "DOD civilian" means the same as that term is defined in Section [53B-8-102]
8537 53H-11-202.
- 8538 (8) "Executive director" means the executive director of the Department of Commerce.
- 8539 (9) "Licensee" includes any holder of a license, certificate, registration, permit, student
8540 card, or apprentice card authorized under this title.
- 8541 (10)(a)(i) "Nonablative procedure" means a procedure that is expected or intended to
8542 alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or
8543 remove living tissue.
- 8544 (ii) Notwithstanding Subsection (10)(a)(i), nonablative procedure includes hair
8545 removal and cryolipolysis.
- 8546 (b) "Nonablative procedure" does not include:
- 8547 (i) a superficial procedure;
- 8548 (ii) the application of permanent make-up;
- 8549 (iii) laser tattoo removal; or
- 8550 (iv) the use of photo therapy and lasers for neuromusculoskeletal treatments that are
8551 performed by an individual licensed under this title who is acting within their
8552 scope of practice.
- 8553 (11) "Pain clinic" means:
- 8554 (a) a clinic that advertises its primary purpose is the treatment of chronic pain; or
- 8555 (b) a clinic in which greater than 50% of the clinic's annual patient population receive
8556 treatment primarily for non-terminal chronic pain using Schedule II-III controlled
8557 substances.
- 8558 (12) "Superficial procedure" means a procedure that is expected or intended to temporarily
8559 alter living skin tissue and may excise or remove stratum corneum but have no
8560 appreciable risk of damage to any tissue below the stratum corneum.
- 8561 (13) "Telemedicine service" means the same as that term is defined in Section 26B-4-704.
- 8562 (14) "Unlawful conduct" means the same as that term is defined in Subsection 58-1-501(1).

(15) "Unprofessional conduct" means the same as that term is defined in Subsection 58-1-501(2).

Section 120. Section **58-22-302** is amended to read:

58-22-302 (Effective upon governor's approval). Qualifications for licensure.

(1) Each applicant for licensure as a professional engineer shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c)(i) have graduated and received a bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board; or
- (ii) have completed the Transportation Engineering Technology and Fundamental Engineering College Program before July 1, 1998, under the direction of the Utah Department of Transportation and as certified by the Utah Department of Transportation;
- (d) have successfully completed a program of qualifying experience established by rule by the division in collaboration with the board;
- (e) have successfully passed examinations established by rule by the division in collaboration with the board; and
- (f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualification for licensure.

(2) Each applicant for licensure as a professional structural engineer shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) have graduated and received an earned bachelors or masters degree from an engineering program meeting criteria established by rule by the division in collaboration with the board;
- (d) have successfully completed three years of licensed professional engineering experience established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating that the applicant is currently engaged in the practice of structural engineering;
- (e) have successfully passed examinations established by rule by the division in collaboration with the board, except that prior to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form prescribed by the division stating

8597 that the applicant is currently engaged in the practice of structural engineering; and
8598 (f) meet with the board or representative of the division upon request for the purpose of
8599 evaluating the applicant's qualification for licensure.

8600 (3) Each applicant for licensure as a professional land surveyor shall:

8601 (a) submit an application in a form approved by the division;

8602 (b) pay a fee determined by the department under Section 63J-1-504;

8603 (c)(i) hold, at a minimum, an associates degree from a land surveying program, or an
8604 equivalent land surveying program, such as a program offered by a technical
8605 college described in Section ~~[53B-2a-105]~~ 53H-3-1202, established by rule by the
8606 division in collaboration with the board, and have successfully completed a
8607 program of qualifying experience in land surveying established by rule by the
8608 division in collaboration with the board; or

8609 (ii) have successfully completed a program of qualifying experience in land
8610 surveying prior to January 1, 2007, in accordance with rules established by the
8611 division in collaboration with the board;

8612 (d) have successfully passed examinations established by rule by the division in
8613 collaboration with the board; and

8614 (e) meet with the board or representative of the division upon request for the purpose of
8615 evaluating the applicant's qualification for licensure.

8616 (4) Each applicant for licensure by endorsement shall:

8617 (a) submit an application in a form approved by the division;

8618 (b) pay a fee determined by the department under Section 63J-1-504;

8619 (c) submit satisfactory evidence of:

8620 (i) current licensure in good standing in a jurisdiction recognized by rule by the
8621 division in collaboration with the board;

8622 (ii) having successfully passed an examination established by rule by the division in
8623 collaboration with the board; and

8624 (iii) full-time employment as a principal for at least five of the last seven years
8625 immediately preceding the date of the application as a:

8626 (A) licensed professional engineer for licensure as a professional engineer;

8627 (B) licensed professional structural engineer for licensure as a structural engineer;

8628 or

8629 (C) licensed professional land surveyor for licensure as a professional land
8630 surveyor; and

(d) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(5) The rules made to implement this section shall be in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 121. Section **58-37-3.5** is amended to read:

58-37-3.5 (Effective upon governor's approval) (Repealed 07/01/27). Drugs for behavioral health treatment.

(1) As used in this section:

(a) "Drug" means any form of psilocybin or methylenedioxymethamphetamine that is in federal Food and Drug Administration Phase 3 testing for an investigational drug described in 21 C.F.R. Part 312.

(b) "Healthcare system" means:

(i) a privately-owned, non-profit, vertically-integrated healthcare system that operates at least 15 licensed hospitals in the state; or

(ii) a health care system closely affiliated with an institution of higher education [described] listed in Section [~~53B-2-104~~] 53H-1-102.

(2) A healthcare system may develop a behavioral health treatment program that includes a treatment based on a drug that the healthcare system determines is supported by a broad collection of scientific and medical research.

(3) A healthcare system described in Subsection (2):

(a) shall ensure that a drug used under the exclusive authority of this section is used by a patient only under the direct supervision and control of the healthcare system and the healthcare system's health care providers who are licensed under this title; and

(b) may not provide treatments that are authorized exclusively under this section to an individual who is not at least 18 years old.

(4) Before July 1, 2026, a healthcare system that creates a behavioral health treatment program under this section shall provide a written report to the Health and Human Services Interim Committee regarding:

(a) drugs used;

(b) health outcomes of patients;

(c) side effects of any drugs used; and

(d) any other information necessary for the Legislature to evaluate the medicinal value of any drugs.

(5) An individual or entity that complies with this section when using, distributing,

possessing, administering, or supervising the use of, a drug is not guilty of a violation of this title.

Section 122. Section **59-7-105** is amended to read:

59-7-105 (Effective upon governor's approval). Additions to unadjusted income.

In computing adjusted income the following amounts shall be added to unadjusted income:

- (1) interest from bonds, notes, and other evidences of indebtedness issued by any state of the United States, including any agency and instrumentality of a state of the United States;
- (2) the amount of any deduction taken on a corporation's federal return for taxes paid by a corporation:
 - (a) to Utah for taxes imposed by this chapter; and
 - (b) to another state of the United States, a foreign country, a United States possession, or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or exercising its corporate franchise, including income, franchise, corporate stock and business and occupation taxes;
- (3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and (2)(a);
- (4) capital losses that have been deducted on a Utah corporate return in previous years;
- (5) any deduction on the federal return that has been previously deducted on the Utah return;
- (6) charitable contributions, to the extent deducted on the federal return when determining federal taxable income;
- (7) the amount of gain or loss determined under Section 59-7-114 relating to a target corporation under Section 338, Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;
- (8) the amount of gain or loss determined under Section 59-7-115 relating to corporations treated for federal purposes as having disposed of its assets under Section 336(e), Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;
- (9) adjustments to gains, losses, depreciation expense, amortization expense, and similar items due to a difference between basis for federal purposes and basis as computed under Section 59-7-107;
- (10) the amount withdrawn under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~] Title 53H, Chapter 10, Utah Education Savings, from the account of a corporation that is an account owner as defined in Section [~~53B-8a-102~~] 53H-10-101, for the taxable year

for which the amount is withdrawn, if that amount withdrawn from the account of the corporation that is the account owner:

(a) is not expended for:

(i) higher education costs as defined in Section ~~[53B-8a-102.5]~~ 53H-10-201; or

(ii) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(b) is subtracted by the corporation:

(i) that is the account owner; and

(ii) in accordance with Subsection 59-7-106(1)(r);

(11) the amount of the deduction for dividends paid, as defined in Section 561, Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in computing the taxable income of a captive real estate investment trust, if that captive real estate investment trust is subject to federal income taxation; and

(12) any deduction on a return filed under this chapter for a royalty or other expense that a corporation pays to an entity related by common ownership for the use of an intangible asset where the intangible asset is owned by the entity related by common ownership unless the corporation can demonstrate to the satisfaction of the commission or a court on judicial review in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, that:

(a) for the same taxable year, the entity related by common ownership is subject to income taxes on the royalty or other expense:

(i) under this chapter;

(ii) under the laws of another state; or

(iii) by a foreign government that has in force an income tax treaty with the United States; or

(b) if Subsection (12)(a) does not apply, the corporation paying the royalty or other expenses never owned the intangible asset.

Section 123. Section **59-7-106** is amended to read:

59-7-106 (Effective upon governor's approval). Subtractions from unadjusted income.

(1) In computing adjusted income, the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax

- purposes under Section 78, Internal Revenue Code;
- (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;
- (c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;
- (d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;
- (e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;
- (f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;
- (g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);
- (h) any income on the federal corporation income tax return that has been previously taxed by Utah;
- (i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:
- (i) if that tax is imposed for the privilege of:
- (A) doing business; or
- (B) exercising a corporate franchise;
- (ii) if that tax is paid by the corporation to:
- (A) Utah;
- (B) another state of the United States;
- (C) a foreign country;
- (D) a United States possession; or
- (E) the Commonwealth of Puerto Rico; and
- (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
- (j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

- 8767 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
8768 from a subsidiary that:
- 8769 (i) is a member of the unitary group;
- 8770 (ii) is organized or incorporated outside of the United States; and
- 8771 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 8772 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
8773 foreign operating company;
- 8774 (m) the amount of gain or loss that is included in unadjusted income but not recognized
8775 for federal purposes on stock sold or exchanged by a member of a selling
8776 consolidated group as defined in Section 338, Internal Revenue Code, if an election
8777 has been made in accordance with Section 338(h)(10), Internal Revenue Code;
- 8778 (n) the amount of gain or loss that is included in unadjusted income but not recognized
8779 for federal purposes on stock sold, exchanged, or distributed by a corporation in
8780 accordance with Section 336(e), Internal Revenue Code, if an election under Section
8781 336(e), Internal Revenue Code, has been made for federal purposes;
- 8782 (o) subject to Subsection (5), an adjustment to the following due to a difference between
8783 basis for federal purposes and basis as computed under Section 59-7-107:
- 8784 (i) an amortization expense;
- 8785 (ii) a depreciation expense;
- 8786 (iii) a gain;
- 8787 (iv) a loss; or
- 8788 (v) an item similar to Subsections (1)(o)(i) through (iv);
- 8789 (p) an interest expense that is not deducted on a federal corporation income tax return
8790 under Section 265(b) or 291(e), Internal Revenue Code;
- 8791 (q) 100% of dividends received from a subsidiary that is an insurance company if that
8792 subsidiary that is an insurance company is:
- 8793 (i) exempt from this chapter under Subsection 59-7-102(1)(c); and
- 8794 (ii) under common ownership;
- 8795 (r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as
8796 defined in Section ~~[53B-8a-102]~~ 53H-10-101, the amount of a qualified investment as
8797 defined in Section ~~[53B-8a-102.5]~~ 53H-10-201:
- 8798 (i) that the corporation or a person other than the corporation makes into an account
8799 owned by the corporation during the taxable year;
- 8800 (ii) to the extent that neither the corporation nor the person other than the corporation

8801 described in Subsection (1)(r)(i) deducts the qualified investment on a federal
8802 income tax return; and

8803 (iii) to the extent the qualified investment does not exceed the maximum amount of
8804 the qualified investment that may be subtracted from unadjusted income for a
8805 taxable year in accordance with Subsection [~~53B-8a-106(1)~~] 53H-10-205(1);

8806 (s) for purposes of income included in a combined report under Part 4, Combined
8807 Reporting, the entire amount of the dividends a member of a unitary group receives
8808 or is considered to receive from a captive real estate investment trust;

8809 (t) the increase in income for federal income tax purposes due to claiming a:

8810 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or
8811 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code;

8812 (u) for a taxable year beginning on or after January 1, 2019, but beginning on or before
8813 December 31, 2019, only:

8814 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
8815 disallowed as a deduction for federal income tax purposes under Section 162(r),
8816 Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus
8817 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
8818 disallowed as a deduction for federal income tax purposes under Section 162(r),
8819 Internal Revenue Code, for the taxable year; and

8820 (v) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
8821 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal
8822 income tax purposes under Section 162(r), Internal Revenue Code, for the taxable
8823 year.

8824 (2) For purposes of Subsection (1)(b):

8825 (a) the subtraction shall be made by claiming the subtraction on a return filed:

8826 (i) under this chapter for the taxable year for which the net capital loss is incurred; and
8827 (ii) by the due date of the return, including extensions; and

8828 (b) a net capital loss for a taxable year shall be:

8829 (i) subtracted for the taxable year for which the net capital loss is incurred; or
8830 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue
8831 Code.

8832 (3)(a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a
8833 taxpayer shall first subtract from a dividend considered to be received or received an
8834 expense directly attributable to that dividend.

- 8835 (b) For purposes of Subsection (3)(a), the amount of an interest expense that is
8836 considered to be directly attributable to a dividend is calculated by multiplying the
8837 interest expense by a fraction:
- 8838 (i) the numerator of which is the taxpayer's average investment in the dividend
8839 paying subsidiaries; and
- 8840 (ii) the denominator of which is the taxpayer's average total investment in assets.
- 8841 (c)(i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in
8842 determining income apportionable to this state, a portion of the factors of a foreign
8843 subsidiary that has dividends that are partially subtracted under Subsection (1)(k)
8844 shall be included in the combined report factors as provided in this Subsection
8845 (3)(c).
- 8846 (ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign
8847 subsidiary that has dividends that are partially subtracted under Subsection (1)(k)
8848 that shall be included in the combined report factors is calculated by multiplying
8849 each factor of the foreign subsidiary by a fraction:
- 8850 (A) not to exceed 100%; and
- 8851 (B)(I) the numerator of which is the amount of the dividend paid by the foreign
8852 subsidiary that is included in adjusted income; and
- 8853 (II) the denominator of which is the current year earnings and profits of the
8854 foreign subsidiary as determined under the Internal Revenue Code.
- 8855 (d) A dividend described in Subsection (1)(k) includes amounts included in federal
8856 taxable income under Section 965(a), Internal Revenue Code and amounts included
8857 in federal taxable income under Section 951A, Internal Revenue Code.
- 8858 (4)(a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under
8859 Subsection (1)(l):
- 8860 (i) if the taxpayer elects to file a worldwide combined report as provided in Section
8861 59-7-403; or
- 8862 (ii) for the following:
- 8863 (A) income generated from intangible property; or
- 8864 (B) a capital gain, dividend, interest, rent, royalty, or other similar item that is
8865 generated from an asset held for investment and not from a regular business
8866 trading activity.
- 8867 (b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating
8868 company:

- 8869 (i) may not subtract an amount provided for in Subsection (1)(k) or (l); and
 8870 (ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a
 8871 transaction that occurs between members of a unitary group.
- 8872 (c) For purposes of the subtraction provided for in Subsection (1)(l), in determining
 8873 income apportionable to this state, the factors for a foreign operating company shall
 8874 be included in the combined report factors in the same percentages as the foreign
 8875 operating company's adjusted income is included in the combined adjusted income.
- 8876 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 8877 commission may by rule define what constitutes:
 8878 (i) income generated from intangible property; or
 8879 (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is
 8880 generated from an asset held for investment and not from a regular business
 8881 trading activity.
- 8882 (5)(a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a
 8883 reduction in basis shall be allowed as an expense for the taxable year in which a
 8884 federal tax credit is claimed if:
 8885 (i) there is a reduction in federal basis for a federal tax credit; and
 8886 (ii) there is no corresponding tax credit allowed in this state.
- 8887 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 8888 commission may by rule define what constitutes an item similar to Subsections
 8889 (1)(o)(i) through (iv).
- 8890 Section 124. Section **59-9-101** is amended to read:
- 8891 **59-9-101 (Effective upon governor's approval). Tax basis -- Rates -- Exemptions**
 8892 **-- Rate reductions.**
- 8893 (1)(a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall
 8894 pay to the commission on or before March 31 in each year, a tax of [~~2-1/4%~~] 2.25%
 8895 of the total premiums received by [~~it~~] admitted insurer during the preceding calendar
 8896 year from insurance covering property or risks located in this state.
- 8897 (b) This Subsection (1) does not apply to:
 8898 (i) workers' compensation insurance, assessed under Subsection (2);
 8899 (ii) title insurance premiums taxed under Subsection (3);
 8900 (iii) annuity considerations;
 8901 (iv) insurance premiums paid by an institution within the state system of higher
 8902 education as specified in Section [~~53B-1-102~~] 53H-1-102; and

- 8903 (v) ocean marine insurance.
- 8904 (c) The taxable premium under this Subsection (1) shall be reduced by:
- 8905 (i) the premiums returned or credited to policyholders on direct business subject to
- 8906 tax in this state;
- 8907 (ii) the premiums received for reinsurance of property or risks located in this state;
- 8908 and
- 8909 (iii) the dividends, including premium reduction benefits maturing within the year:
- 8910 (A) paid or credited to policyholders in this state; or
- 8911 (B) applied in abatement or reduction of premiums due during the preceding
- 8912 calendar year.
- 8913 (d)(i) For purposes of this Subsection (1)(d):
- 8914 (A) "Utah variable life insurance premium" means an insurance premium paid:
- 8915 (I) by:
- 8916 (Aa) a corporation; or
- 8917 (Bb) a trust established or funded by a corporation; and
- 8918 (II) for variable life insurance covering risks located within the state.
- 8919 (B) "Variable life insurance" means an insurance policy that provides for life
- 8920 insurance, the amount or duration of which varies according to the investment
- 8921 experience of one or more separate accounts that are established and
- 8922 maintained by the insurer pursuant to Title 31A, Insurance Code.
- 8923 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that
- 8924 portion of the total premiums subject to a tax under Subsection (1)(a) that is a
- 8925 Utah variable life insurance premium shall be calculated as follows:
- 8926 (A) [~~2-1/4%~~ 2.25%] of the first \$100,000 of Utah variable life insurance premiums:
- 8927 (I) paid for each variable life insurance policy; and
- 8928 (II) received by the admitted insurer in the preceding calendar year; and
- 8929 (B) .08% of the Utah variable life insurance premiums that exceed \$100,000:
- 8930 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and
- 8931 (II) received by the admitted insurer in the preceding calendar year.
- 8932 (2)(a) An admitted insurer writing workers' compensation insurance in this state shall
- 8933 pay to the tax commission, on or before March 31 in each year, a premium
- 8934 assessment on the basis of the total workers' compensation premium income received
- 8935 by the insurer from workers' compensation insurance in this state during the
- 8936 preceding calendar year as follows:

- 8937 (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but
8938 equal to or less than 5.75% of the total workers' compensation premium income
8939 described in this Subsection (2);
- 8940 (ii) on and after January 1, 2011, but on or before December 31, 2022, an amount of
8941 equal to or greater than 1%, but equal to or less than 4.25% of the total workers'
8942 compensation premium income described in this Subsection (2); and
- 8943 (iii) on and after January 1, 2023, an amount equal to 1.25% of the total workers'
8944 compensation premium income described in this Subsection (2).
- 8945 (b) Total workers' compensation premium income means the net written premium as
8946 calculated before any premium reduction for any insured employer's deductible,
8947 retention, or reimbursement amounts and also those amounts equivalent to premiums
8948 as provided in Section 34A-2-202.
- 8949 (c) The percentage of premium assessment applicable for a calendar year shall be
8950 determined by the Labor Commission under Subsection (2)(d). The total premium
8951 income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and
8952 (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The commission shall
8953 promptly remit from the premium assessment collected under this Subsection (2):
- 8954 (i) income to the state treasurer for credit to the Employers' Reinsurance Fund created
8955 under Subsection 34A-2-702(1) as follows:
- 8956 (A) on or before December 31, 2009, an amount of up to 5% of the total workers'
8957 compensation premium income;
- 8958 (B) on and after January 1, 2010, but on or before December 31, 2010, an amount
8959 of up to 4.5% of the total workers' compensation premium income;
- 8960 (C) on and after January 1, 2011, but on or before December 31, 2022, an amount
8961 of up to 3% of the total workers' compensation premium income; and
- 8962 (D) on and after January 1, 2023, 0% of the total workers' compensation premium
8963 income;
- 8964 (ii) an amount equal to .25% of the total workers' compensation premium income to
8965 the state treasurer for credit to the Workplace Safety Account created by Section
8966 34A-2-701;
- 8967 (iii) an amount of up to .5% and any remaining assessed percentage of the total
8968 workers' compensation premium income to the state treasurer for credit to the
8969 Uninsured Employers' Fund created under Section 34A-2-704; and
- 8970 (iv) beginning on January 1, 2010, .5% of the total workers' compensation premium

8971 income to the state treasurer for credit to the Industrial Accident Restricted
8972 Account created in Section 34A-2-705.

8973 (d)(i) The Labor Commission shall determine the amount of the premium assessment
8974 for each year on or before each October 15 of the preceding year. The Labor
8975 Commission shall make this determination following a public hearing. The
8976 determination shall be based upon the recommendations of a qualified actuary.

8977 (ii) The actuary shall recommend a premium assessment rate sufficient to provide
8978 payments of benefits and expenses from the Employers' Reinsurance Fund and to
8979 project a funded condition with assets greater than liabilities by no later than June
8980 30, 2025.

8981 (iii) The actuary shall recommend a premium assessment rate sufficient to provide
8982 payments of benefits and expenses from the Uninsured Employers' Fund and to
8983 maintain it at a funded condition with assets equal to or greater than liabilities.

8984 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
8985 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year
8986 beginning in 1990 by multiplying by the ratio that the total workers' compensation
8987 premium income for the preceding calendar year bears to the total workers'
8988 compensation premium income for the calendar year 1988.

8989 (v) The requirements of Subsection (2)(d)(iv) cease when the future annual
8990 disbursements from the Employers' Reinsurance Fund are projected to be less than
8991 the calculations of the corresponding future minimum required assets. The Labor
8992 Commission shall, after a public hearing, determine if the future annual
8993 disbursements are less than the corresponding future minimum required assets
8994 from projections provided by the actuary.

8995 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
8996 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year
8997 beginning in 1990 by multiplying by the ratio that the total workers' compensation
8998 premium income for the preceding calendar year bears to the total workers'
8999 compensation premium income for the calendar year 1988.

9000 (e) A premium assessment that is to be transferred into the General Fund may be
9001 collected on premiums received from Utah public agencies.

9002 (3) An admitted insurer writing title insurance in this state shall pay to the commission, on
9003 or before March 31 in each year, a tax of .45% of the total premium received by either
9004 the insurer or by its agents during the preceding calendar year from title insurance

concerning property located in this state. In calculating this tax, "premium" includes the charges made to an insured under or to an applicant for a policy or contract of title insurance for:

(a) the assumption by the title insurer of the risks assumed by the issuance of the policy or contract of title insurance; and

(b) abstracting title, title searching, examining title, or determining the insurability of title, and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title insurance producer, or any of them.

(4) Beginning July 1, 1986, a former county mutual and a former mutual benefit association shall pay the premium tax or assessment due under this chapter. Premiums received after July 1, 1986, shall be considered in determining the tax or assessment.

(5) The following insurers are not subject to the premium tax on health care insurance that would otherwise be applicable under Subsection (1):

(a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

(e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs; and

(f) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

(6)(a) As used in this Subsection (6):

(i) "Cancellation fee waiver" means the same as that term is defined in Section 31A-23a-902.

(ii) "Primary certificate holder" means an individual who elects and purchases travel insurance under a group policy.

(iii) "Primary policyholder" means an individual who elects and purchases individual travel insurance.

(iv) "Travel assistance service" means the same as that term is defined in Section 31A-23a-902.

(v) "Travel insurance" means the same as that term is defined in Section 31A-23a-902.

(b) A travel insurer shall:

- 9039 (i) pay a premium tax required under Subsection (1) on a travel insurance premium
9040 that:
- 9041 (A) an individual primary policyholder pays, if the policyholder is a resident of
9042 this state;
- 9043 (B) a primary certificate holder pays, if the certificate holder is a resident of this
9044 state and elects coverage under a group travel insurance policy; or
- 9045 (C) subject to any apportionment rules that apply to the insurer across multiple
9046 taxing jurisdictions or permit the insurer to allocate the premium on an
9047 apportioned basis in a reasonable and equitable manner across multiple
9048 jurisdictions, a blanket travel insurance policyholder pays for eligible blanket
9049 group members, if the policyholder is a resident in this state, has the
9050 policyholder's principal place of business in this state, or has the principal place
9051 of business of an affiliate or subsidiary that has purchased blanket travel
9052 insurance in this state;
- 9053 (ii) document the state of residence or principal place of business of each
9054 policyholder and certificate holder; and
- 9055 (iii) report as a premium only the amount allocable to travel insurance and not an
9056 amount received for:
- 9057 (A) a cancellation fee waiver; or
9058 (B) a travel assistance service.
- 9059 (7) A captive insurer, as provided in Section 31A-3-304, that pays a fee imposed under
9060 Section 31A-3-304 is not subject to the premium tax under this section.
- 9061 (8) An insurer issuing multiple policies to an insured may not artificially allocate the
9062 premiums among the policies for purposes of reducing the aggregate premium tax or
9063 assessment applicable to the policies.
- 9064 (9) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and Taxes,
9065 apply to the tax or assessment imposed under this chapter.
- 9066 Section 125. Section **59-9-102.5** is amended to read:
- 9067 **59-9-102.5 (Effective upon governor's approval) (Repealed 12/31/30). Offset for**
9068 **occupational health and safety related donations.**
- 9069 (1) As used in this section:
- 9070 (a) "Occupational health and safety center" means the Rocky Mountain Center for
9071 Occupational and Environmental Health created in [~~Title 53B, Chapter 30, Part 2,~~
9072 ~~Rocky Mountain Center for Occupational and Environmental Health~~] Title 53H,

Chapter 5, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting undergraduate or graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing;

(IV) occupational injury prevention; and

(V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).

(2)(a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:

(i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

(ii) .20% of the workers' compensation insurer's total workers' compensation premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center; and

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the

9107 purposes described in Subsection (1)(b)(iii).

9108 Section 126. Section **59-10-114** is amended to read:

9109 **59-10-114 (Effective upon governor's approval). Additions to and subtractions**
9110 **from adjusted gross income of an individual.**

9111 (1) There shall be added to adjusted gross income of a resident or nonresident individual:

9112 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
9113 on the taxpayer's federal individual income tax return for the taxable year;

9114 (b) the amount of a child's income calculated under Subsection (4) that:

9115 (i) a parent elects to report on the parent's federal individual income tax return for the
9116 taxable year; and

9117 (ii) the parent does not include in adjusted gross income on the parent's federal
9118 individual income tax return for the taxable year;

9119 (c)(i) a withdrawal from a medical care savings account and any penalty imposed for
9120 the taxable year if:

9121 (A) the resident or nonresident individual does not deduct the amounts on the
9122 resident or nonresident individual's federal individual income tax return under
9123 Section 220, Internal Revenue Code;

9124 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

9125 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit
9126 on, a return the resident or nonresident individual files under this chapter;

9127 (ii) a disbursement required to be added to adjusted gross income in accordance with
9128 Subsection 31A-32a-105(3); or

9129 (iii) an amount required to be added to adjusted gross income in accordance with
9130 Subsection 31A-32a-105(5)(c);

9131 (d) the amount withdrawn under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]
9132 Title 53H, Chapter 10, Utah Education Savings, from the account of a resident or
9133 nonresident individual who is an account owner as defined in Section [~~53B-8a-102~~]
9134 53H-10-101, for the taxable year for which the amount is withdrawn, if that amount
9135 withdrawn from the account of the resident or nonresident individual who is the
9136 account owner:

9137 (i) is not expended for:

9138 (A) higher education costs as defined in Section [~~53B-8a-102.5~~] 53H-10-201; or

9139 (B) a payment or distribution that qualifies as an exception to the additional tax

9140 for distributions not used for educational expenses provided in Sections 529(c)

- 9141 and 530(d), Internal Revenue Code; and
- 9142 (ii) is:
- 9143 (A) subtracted by the resident or nonresident individual:
- 9144 (I) who is the account owner; and
- 9145 (II) on the resident or nonresident individual's return filed under this chapter
- 9146 for a taxable year beginning on or before December 31, 2007; or
- 9147 (B) used as the basis for the resident or nonresident individual who is the account
- 9148 owner to claim a tax credit under Section 59-10-1017;
- 9149 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
- 9150 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and
- 9151 other evidences of indebtedness:
- 9152 (i) issued by one or more of the following entities:
- 9153 (A) a state other than this state;
- 9154 (B) the District of Columbia;
- 9155 (C) a political subdivision of a state other than this state; or
- 9156 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
- 9157 through (C); and
- 9158 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
- 9159 federal income tax return for the taxable year;
- 9160 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
- 9161 resident trust of income that was taxed at the trust level for federal tax purposes, but
- 9162 was subtracted from state taxable income of the trust pursuant to Subsection
- 9163 59-10-202(2)(b);
- 9164 (g) any distribution received by a resident beneficiary of a nonresident trust of
- 9165 undistributed distributable net income realized by the trust on or after January 1,
- 9166 2004, if that undistributed distributable net income was taxed at the trust level for
- 9167 federal tax purposes, but was not taxed at the trust level by any state, with
- 9168 undistributed distributable net income considered to be distributed from the most
- 9169 recently accumulated undistributed distributable net income;
- 9170 (h) any adoption expense:
- 9171 (i) for which a resident or nonresident individual receives reimbursement from
- 9172 another person; and
- 9173 (ii) to the extent to which the resident or nonresident individual subtracts that
- 9174 adoption expense:

- 9175 (A) on a return filed under this chapter for a taxable year beginning on or before
9176 December 31, 2007; or
- 9177 (B) from federal taxable income on a federal individual income tax return;
- 9178 (i) the amount of tax paid on income attributed to the individual in accordance with
9179 Subsection 59-10-1403.2(2) that is not included in adjusted gross income; and
- 9180 (j) the amount of tax paid:
- 9181 (i) on income attributed to the individual and taxable in this state, that is not included
9182 in adjusted gross income;
- 9183 (ii) to another state; and
- 9184 (iii) that the commission determines is substantially similar to the tax imposed under
9185 Subsection 59-10-1403.2(2).
- 9186 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
9187 individual:
- 9188 (a) the difference between:
- 9189 (i) the interest or a dividend on an obligation or security of the United States or an
9190 authority, commission, instrumentality, or possession of the United States, to the
9191 extent that interest or dividend is:
- 9192 (A) included in adjusted gross income for federal income tax purposes for the
9193 taxable year; and
- 9194 (B) exempt from state income taxes under the laws of the United States; and
- 9195 (ii) any interest on indebtedness incurred or continued to purchase or carry the
9196 obligation or security described in Subsection (2)(a)(i);
- 9197 (b) if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute
9198 tribal member:
- 9199 (i) during a time period that the Ute tribal member resides on homesteaded land
9200 diminished from the Uintah and Ouray Reservation; and
- 9201 (ii) from a source within the Uintah and Ouray Reservation;
- 9202 (c) an amount received by a resident or nonresident individual or distribution received
9203 by a resident or nonresident beneficiary of a resident trust:
- 9204 (i) if that amount or distribution constitutes a refund of taxes imposed by:
- 9205 (A) a state; or
- 9206 (B) the District of Columbia; and
- 9207 (ii) to the extent that amount or distribution is included in adjusted gross income for
9208 that taxable year on the federal individual income tax return of the resident or

- 9209 nonresident individual or resident or nonresident beneficiary of a resident trust;
- 9210 (d) the amount of a railroad retirement benefit:
- 9211 (i) paid:
- 9212 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231
- 9213 et seq.;
- 9214 (B) to a resident or nonresident individual; and
- 9215 (C) for the taxable year; and
- 9216 (ii) to the extent that railroad retirement benefit is included in adjusted gross income
- 9217 on that resident or nonresident individual's federal individual income tax return for
- 9218 that taxable year;
- 9219 (e) an amount:
- 9220 (i) received by an enrolled member of an American Indian tribe; and
- 9221 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
- 9222 part on that amount in accordance with:
- 9223 (A) federal law;
- 9224 (B) a treaty; or
- 9225 (C) a final decision issued by a court of competent jurisdiction;
- 9226 (f) an amount received:
- 9227 (i) for the interest on a bond, note, or other obligation issued by an entity for which
- 9228 state statute provides an exemption of interest on its bonds from state individual
- 9229 income tax;
- 9230 (ii) by a resident or nonresident individual;
- 9231 (iii) for the taxable year; and
- 9232 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
- 9233 federal income tax return for the taxable year;
- 9234 (g) the amount of all income, including income apportioned to another state, of a
- 9235 nonmilitary spouse of an active duty military member if:
- 9236 (i) both the nonmilitary spouse and the active duty military member are nonresident
- 9237 individuals;
- 9238 (ii) the active duty military member is stationed in Utah;
- 9239 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
- 9240 4001(a)(2); and
- 9241 (iv) the income is included in adjusted gross income for federal income tax purposes
- 9242 for the taxable year;

- 9243 (h) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed
9244 as a deduction for federal income tax purposes under Section 162(r), Internal
9245 Revenue Code, for the taxable year;
- 9246 (i) an amount of a distribution from a qualified retirement plan under Section 401(a),
9247 Internal Revenue Code, if:
- 9248 (i) the amount of the distribution is included in adjusted gross income on the resident
9249 or nonresident individual's federal individual income tax return for the taxable
9250 year; and
- 9251 (ii) for the taxable year when the amount of the distribution was contributed to the
9252 qualified retirement plan, the amount of the distribution:
- 9253 (A) was not included in adjusted gross income on the resident or nonresident
9254 individual's federal individual income tax return for the taxable year; and
- 9255 (B) was taxed by another state of the United States, the District of Columbia, or a
9256 possession of the United States; and
- 9257 (j) the amount of any repayment in the current taxable year of social security income
9258 received in a previous taxable year if:
- 9259 (i) the individual claimed a credit for the repayment on the individual's federal
9260 individual income tax return for the current taxable year; and
- 9261 (ii) the individual did not claim a tax credit under Section 59-10-1042 for the taxable
9262 year in which the individual received the social security income.
- 9263 (3)(a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:
- 9264 (i) the taxpayer is a Ute tribal member; and
- 9265 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
9266 requirements of this Subsection (3).
- 9267 (b) The agreement described in Subsection (3)(a):
- 9268 (i) may not:
- 9269 (A) authorize the state to impose a tax in addition to a tax imposed under this
9270 chapter;
- 9271 (B) provide a subtraction under this section greater than or different from the
9272 subtraction described in Subsection (2)(b); or
- 9273 (C) affect the power of the state to establish rates of taxation; and
- 9274 (ii) shall:
- 9275 (A) provide for the implementation of the subtraction described in Subsection
9276 (2)(b);

9277 (B) be in writing;

9278 (C) be signed by:

9279 (I) the governor; and

9280 (II) the chair of the Business Committee of the Ute tribe;

9281 (D) be conditioned on obtaining any approval required by federal law; and

9282 (E) state the effective date of the agreement.

9283 (c)(i) The governor shall report to the commission by no later than February 1 of each
9284 year regarding whether or not an agreement meeting the requirements of this
9285 Subsection (3) is in effect.

9286 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
9287 subtraction permitted under Subsection (2)(b) is not allowed for taxable years
9288 beginning on or after the January 1 following the termination of the agreement.

9289 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah
9290 Administrative Rulemaking Act, the commission may make rules:

9291 (i) for determining whether income is derived from a source within the Uintah and
9292 Ouray Reservation; and

9293 (ii) that are substantially similar to how adjusted gross income derived from Utah
9294 sources is determined under Section 59-10-117.

9295 (4)(a) For purposes of this Subsection (4), "Form 8814" means:

9296 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
9297 Interest and Dividends; or

9298 (ii)(A) a form designated by the commission in accordance with Subsection
9299 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of
9300 federal individual income taxes the information contained on 2000 Form 8814
9301 is reported on a form other than Form 8814; and

9302 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G,
9303 Chapter 3, Utah Administrative Rulemaking Act, the commission may make
9304 rules designating a form as being substantially similar to 2000 Form 8814 if for
9305 purposes of federal individual income taxes the information contained on 2000
9306 Form 8814 is reported on a form other than Form 8814.

9307 (b) The amount of a child's income added to adjusted gross income under Subsection
9308 (1)(b) is equal to the difference between:

9309 (i) the lesser of:

9310 (A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii)(A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 127. Section **59-10-136** is amended to read:

59-10-136 (Effective upon governor's approval). Domicile.

(1)(a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state;

(ii) the individual or the individual's spouse is a resident student in accordance with Section ~~[53B-8-102]~~ 53H-11-202 who is enrolled in an institution of higher education ~~[described]~~ listed in Section ~~[53B-2-101]~~ 53H-1-102 in this state; or

(iii) the individual or the individual's spouse, in that taxable year:

(A) votes in this state in a regular general election, municipal general election, primary election, or special election;

- 9345 (B) has not registered to vote in another state; and
9346 (C) has not voted in another state that does not require voter registration.
- 9347 (b) The determination of whether an individual is considered to have domicile in this
9348 state may not be determined in accordance with Subsection (1)(a)(i) if the individual:
9349 (i) is the noncustodial parent of a dependent:
9350 (A) with respect to whom the individual claims a personal exemption or a tax
9351 credit under Section 24, Internal Revenue Code, on the individual's federal
9352 individual income tax return; and
9353 (B) who is enrolled in a public kindergarten, public elementary school, or public
9354 secondary school in this state; and
9355 (ii)(A) is divorced from the custodial parent of the dependent described in
9356 Subsection (1)(b)(i); or
9357 (B) was never married to the custodial parent of the dependent described in
9358 Subsection (1)(b)(i).
- 9359 (2)(a) Subject to Subsection (2)(b), if the requirements of Subsection (1) are not met for
9360 an individual to be considered to have domicile in this state, the individual is
9361 considered to have domicile in this state if:
9362 (i) the individual or the individual's spouse has a permanent home in this state to
9363 which the individual or the individual's spouse intends to return after being absent;
9364 and
9365 (ii) the individual or the individual's spouse has voluntarily fixed the individual's or
9366 the individual's spouse's habitation in this state, not for a special or temporary
9367 purpose, but with the intent of making a permanent home.
- 9368 (b) The determination of whether an individual is considered to have domicile in this
9369 state under this Subsection (2) shall be based on the preponderance of the evidence,
9370 taking into consideration the totality of only the following facts and circumstances:
9371 (i) whether the individual or the individual's spouse has a driver license in this state;
9372 (ii) whether the individual or the individual's spouse receives a residential exemption
9373 in accordance with Chapter 2, Property Tax Act, for that individual's or
9374 individual's spouse's primary residence;
9375 (iii) whether a dependent with respect to whom the individual or the individual's
9376 spouse claims a personal exemption or a tax credit under Section 24, Internal
9377 Revenue Code, on the individual's or individual's spouse's federal individual
9378 income tax return is a resident student in accordance with Section [53B-8-102]

- 9379 53H-11-202 who is enrolled in an institution of higher education [~~described~~] listed
9380 in Section [~~53B-2-101~~] 53H-1-102 in this state;
- 9381 (iv) the nature and quality of the living accommodations that the individual or the
9382 individual's spouse has in this state as compared to another state;
- 9383 (v) the presence in this state of a spouse or dependent with respect to whom the
9384 individual or the individual's spouse claims a personal exemption or a tax credit
9385 under Section 24, Internal Revenue Code, on the individual's or individual's
9386 spouse's federal individual income tax return;
- 9387 (vi) the physical location in which earned income as defined in Section 32(c)(2),
9388 Internal Revenue Code, is earned by the individual or the individual's spouse;
- 9389 (vii) the state of registration of a vehicle as defined in Section 59-12-102 owned or
9390 leased by the individual or the individual's spouse;
- 9391 (viii) whether the individual or the individual's spouse is a member of a church, a
9392 club, or another similar organization in this state;
- 9393 (ix) whether the individual or the individual's spouse lists an address in this state on
9394 mail, a telephone listing, a listing in an official government publication, other
9395 correspondence, or another similar item;
- 9396 (x) whether the individual or the individual's spouse lists an address in this state on a
9397 state or federal tax return;
- 9398 (xi) whether the individual or the individual's spouse asserts residency in this state for
9399 purposes of filing an individual income tax return under this chapter, including
9400 asserting that the individual or the individual's spouse is a part-year resident of
9401 this state for the portion of the taxable year for which the individual or the
9402 individual's spouse is a resident of this state;
- 9403 (xii) whether the individual or the individual's spouse asserts residency in this state
9404 on a document, other than an individual income tax return filed under this chapter,
9405 filed with or provided to a court or other governmental entity;
- 9406 (xiii) the failure of an individual or the individual's spouse to obtain a permit or
9407 license normally required of a resident of the state for which the individual or the
9408 individual's spouse asserts to have domicile;
- 9409 (xiv) whether the individual is an individual described in Subsection (1)(b);
- 9410 (xv) whether the individual:
- 9411 (A) maintains a place of abode in this state; and
- 9412 (B) spends in the aggregate 183 or more days of the taxable year in this state; or

- 9413 (xvi) whether the individual or the individual's spouse:
- 9414 (A) did not vote in this state in a regular general election, municipal general
- 9415 election, primary election, or special election during the taxable year, but voted
- 9416 in the state in a general election, municipal general election, primary election,
- 9417 or special election during any of the three taxable years prior to that taxable
- 9418 year; and
- 9419 (B) has not registered to vote in another state during a taxable year described in
- 9420 Subsection (2)(b)(xvi)(A).
- 9421 (3) Notwithstanding Subsection (2), for individuals who are spouses for purposes of this
- 9422 section and one of the spouses has domicile under this section, the other spouse is not
- 9423 considered to have domicile in this state under Subsection (2) if one of the spouses
- 9424 establishes by a preponderance of the evidence that, during the taxable year and for three
- 9425 taxable years prior to that taxable year, that other spouse:
- 9426 (a) is not an owner of property in this state;
- 9427 (b) has not spent in the aggregate more than 30 days of the taxable year in this state;
- 9428 (c) has not received earned income as defined in Section 32(c)(2), Internal Revenue
- 9429 Code, in this state;
- 9430 (d) has not voted in this state in a regular general election, municipal general election,
- 9431 primary election, or special election; and
- 9432 (e) does not have a driver license in this state.
- 9433 (4)(a) For purposes of this section, an individual is not considered to have a spouse if:
- 9434 (i) the individual is legally separated or divorced from the spouse; or
- 9435 (ii) the individual and the individual's spouse claim married filing separately filing
- 9436 status for purposes of filing a federal individual income tax return for the taxable
- 9437 year.
- 9438 (b) Except as provided in Subsection (4)(a)(ii), for purposes of this section, an
- 9439 individual's filing status on a federal individual income tax return or a return filed
- 9440 under this chapter may not be considered in determining whether the individual has a
- 9441 spouse.
- 9442 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for
- 9443 purposes of Subsections (2)(b)(xv) and (3)(b), the commission may by rule define what
- 9444 constitutes spending a day of the taxable year in this state.
- 9445 Section 128. Section **59-10-201** is amended to read:
- 9446 **59-10-201 (Effective upon governor's approval). Taxation of resident trusts and**

9447 **estates.**

9448 (1) Except as provided in Subsection (2), a tax determined in accordance with the rate
9449 prescribed by Subsection 59-10-104(2)(b) is imposed for each taxable year on the state
9450 taxable income of each resident estate or trust.

9451 (2) The following are not subject to a tax imposed by this part:

9452 (a) a resident estate or trust that is not required to file a federal income tax return for
9453 estates and trusts for the taxable year; or

9454 (b) a resident trust taxed as a corporation.

9455 (3) A resident estate or trust shall be allowed the credit provided in Section 59-10-1003,
9456 relating to an income tax imposed by another state, except that the limitation shall be
9457 computed by reference to the taxable income of the estate or trust.

9458 (4) The property of the Utah Educational Savings Plan established in [~~Title 53B, Chapter~~
9459 ~~8a, Utah Educational Savings Plan~~] Title 53H, Chapter 10 Utah Education Savings, and [
9460 ~~its~~] the Utah Educational Savings Plan's income from operations and investments are
9461 exempt from all taxation by the state under this chapter.

9462 Section 129. Section **59-10-202** is amended to read:

9463 **59-10-202 (Effective upon governor's approval). Additions to and subtractions**
9464 **from unadjusted income of a resident or nonresident estate or trust.**

9465 (1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

9466 (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal
9467 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue
9468 Code, in determining adjusted gross income;

9469 (b) except as provided in Subsection (3), for bonds, notes, and other evidences of
9470 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and
9471 other evidences of indebtedness:

9472 (i) issued by one or more of the following entities:

9473 (A) a state other than this state;

9474 (B) the District of Columbia;

9475 (C) a political subdivision of a state other than this state; or

9476 (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A)
9477 through (C); and

9478 (ii) to the extent the interest is not included in federal taxable income on the
9479 taxpayer's federal income tax return for the taxable year;

9480 (c) any portion of federal taxable income for a taxable year if that federal taxable income

- 9481 is derived from stock:
- 9482 (i) in an S corporation; and
- 9483 (ii) that is held by an electing small business trust;
- 9484 (d) the amount withdrawn under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~]
9485 Title 53H, Chapter 10, Utah Education Savings, from the account of a resident or
9486 nonresident estate or trust that is an account owner as defined in Section [~~53B-8a-102~~]
9487 53H-10-101, for the taxable year for which the amount is withdrawn, if that amount
9488 withdrawn from the account of the resident or nonresident estate or trust that is the
9489 account owner:
- 9490 (i) is not expended for:
- 9491 (A) higher education costs as defined in Section [~~53B-8a-102.5~~] 53H-10-201; or
- 9492 (B) a payment or distribution that qualifies as an exception to the additional tax
9493 for distributions not used for educational expenses provided in Sections 529(c)
9494 and 530(d), Internal Revenue Code; and
- 9495 (ii) is:
- 9496 (A) subtracted by the resident or nonresident estate or trust:
- 9497 (I) that is the account owner; and
- 9498 (II) on the resident or nonresident estate's or trust's return filed under this
9499 chapter for a taxable year beginning on or before December 31, 2007; or
- 9500 (B) used as the basis for the resident or nonresident estate or trust that is the
9501 account owner to claim a tax credit under Section 59-10-1017; and
- 9502 (e) any fiduciary adjustments required by Section 59-10-210.
- 9503 (2) There shall be subtracted from unadjusted income of a resident or nonresident estate or
9504 trust:
- 9505 (a) the interest or a dividend on obligations or securities of the United States and its
9506 possessions or of any authority, commission, or instrumentality of the United States,
9507 to the extent that interest or dividend is included in gross income for federal income
9508 tax purposes for the taxable year but exempt from state income taxes under the laws
9509 of the United States, but the amount subtracted under this Subsection (2) shall be
9510 reduced by any interest on indebtedness incurred or continued to purchase or carry
9511 the obligations or securities described in this Subsection (2), and by any expenses
9512 incurred in the production of interest or dividend income described in this Subsection
9513 (2) to the extent that such expenses, including amortizable bond premiums, are
9514 deductible in determining federal taxable income;

- 9515 (b) income of an irrevocable resident trust if:
- 9516 (i) the income would not be treated as state taxable income derived from Utah
- 9517 sources under Section 59-10-204 if received by a nonresident trust;
- 9518 (ii) the trust first became a resident trust on or after January 1, 2004;
- 9519 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
- 9520 resident irrevocable trust created by the same settlor or the spouse of the same
- 9521 settlor;
- 9522 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);
- 9523 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the
- 9524 settlor or any other person is treated as an owner of any portion of the trust under
- 9525 Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and
- 9526 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on
- 9527 indebtedness incurred or continued to purchase or carry the assets generating the
- 9528 income described in this Subsection (2)(b), and by any expenses incurred in the
- 9529 production of income described in this Subsection (2)(b), to the extent that those
- 9530 expenses, including amortizable bond premiums, are deductible in determining
- 9531 federal taxable income;
- 9532 (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or
- 9533 nonresident estate or trust derived from a deceased Ute tribal member:
- 9534 (i) during a time period that the Ute tribal member resided on homesteaded land
- 9535 diminished from the Uintah and Ouray Reservation; and
- 9536 (ii) from a source within the Uintah and Ouray Reservation;
- 9537 (d) any amount:
- 9538 (i) received by a resident or nonresident estate or trust;
- 9539 (ii) that constitutes a refund of taxes imposed by:
- 9540 (A) a state; or
- 9541 (B) the District of Columbia; and
- 9542 (iii) to the extent that amount is included in total income on that resident or
- 9543 nonresident estate's or trust's federal tax return for estates and trusts for that
- 9544 taxable year;
- 9545 (e) the amount of a railroad retirement benefit:
- 9546 (i) paid:
- 9547 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231
- 9548 et seq.;

- 9549 (B) to a resident or nonresident estate or trust derived from a deceased resident or
9550 nonresident individual; and
- 9551 (C) for the taxable year; and
- 9552 (ii) to the extent that railroad retirement benefit is included in total income on that
9553 resident or nonresident estate's or trust's federal tax return for estates and trusts;
- 9554 (f) an amount:
- 9555 (i) received by a resident or nonresident estate or trust if that amount is derived from
9556 a deceased enrolled member of an American Indian tribe; and
- 9557 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
9558 part on that amount in accordance with:
- 9559 (A) federal law;
- 9560 (B) a treaty; or
- 9561 (C) a final decision issued by a court of competent jurisdiction;
- 9562 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section
9563 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on
9564 the qualified nongrantor charitable lead trust's federal income tax return for estates
9565 and trusts for the taxable year;
- 9566 (h) any fiduciary adjustments required by Section 59-10-210;
- 9567 (i) an amount received:
- 9568 (i) for the interest on a bond, note, or other obligation issued by an entity for which
9569 state statute provides an exemption of interest on its bonds from state individual
9570 income tax;
- 9571 (ii) by a resident or nonresident estate or trust;
- 9572 (iii) for the taxable year; and
- 9573 (iv) to the extent the amount is included in federal taxable income on the taxpayer's
9574 federal income tax return for the taxable year;
- 9575 (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before
9576 December 31, 2019, only:
- 9577 (i) the amount of any FDIC premium paid or incurred by the resident or nonresident
9578 estate or trust that is disallowed as a deduction for federal income tax purposes
9579 under Section 162(r), Internal Revenue Code, on the resident's or nonresident
9580 estate's or trust's 2018 federal income tax return; plus
- 9581 (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident
9582 estate or trust that is disallowed as a deduction for federal income tax purposes

9583 under Section 162(r), Internal Revenue Code, for the taxable year; and

- 9584 (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
9585 premium paid or incurred by the resident or nonresident estate or trust that is
9586 disallowed as a deduction for federal income tax purposes under Section 162(r),
9587 Internal Revenue Code, for the taxable year.

- 9588 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of
9589 indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may
9590 not be added to unadjusted income of a resident or nonresident estate or trust if, as
9591 annually determined by the commission:

- 9592 (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the
9593 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax
9594 based on income on any part of the bonds, notes, and other evidences of indebtedness
9595 of this state; or

- 9596 (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not impose
9597 a tax based on income on any part of the bonds, notes, and other evidences of
9598 indebtedness of this state:

- 9599 (i) the entity; or

- 9600 (ii)(A) the state in which the entity is located; or

- 9601 (B) the District of Columbia, if the entity is located within the District of
9602 Columbia.

- 9603 (4)(a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:

- 9604 (i) the income is derived from a deceased Ute tribal member; and

- 9605 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
9606 requirements of this Subsection (4).

- 9607 (b) The agreement described in Subsection (4)(a):

- 9608 (i) may not:

- 9609 (A) authorize the state to impose a tax in addition to a tax imposed under this
9610 chapter;

- 9611 (B) provide a subtraction under this section greater than or different from the
9612 subtraction described in Subsection (2)(c); or

- 9613 (C) affect the power of the state to establish rates of taxation; and

- 9614 (ii) shall:

- 9615 (A) provide for the implementation of the subtraction described in Subsection
9616 (2)(c);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c)(i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

Section 130. Section **59-10-1017** is amended to read:

59-10-1017 (Effective upon governor's approval). Utah Educational Savings Plan tax credit.

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section [~~53B-8a-102~~] 53H-10-101.

(b) "Grantor trust" means the same as that term is defined in Section [~~53B-8a-102.5~~] 53H-10-201.

(c) "Higher education costs" means the same as that term is defined in Section [~~53B-8a-102.5~~] 53H-10-201.

(d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of the percentage listed in Subsection 59-10-104(2) and:

(i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

- 9651 (A) listed in Subsection [~~53B-8a-106(1)(e)(ii)~~] 53H-10-205(1)(e)(ii); and
- 9652 (B) increased or kept for that taxable year in accordance with Subsections [
9653 ~~53B-8a-106(1)(f) and (g)~~] 53H-10-205(1)(f) and (g);
- 9654 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account
9655 owners who file a single return jointly, the maximum amount of a qualified
9656 investment:
- 9657 (A) listed in Subsection [~~53B-8a-106(1)(e)(iii)~~] 53H-10-205(1)(e)(iii); and
- 9658 (B) increased or kept for that taxable year in accordance with Subsections [
9659 ~~53B-8a-106(1)(f) and (g)~~] 53H-10-205(1)(f) and (g); or
- 9660 (iii) for a grantor trust:
- 9661 (A) if the owner of the grantor trust has a single filing status or head of household
9662 filing status as defined in Section 59-10-1018, the amount described in
9663 Subsection (1)(d)(i); or
- 9664 (B) if the owner of the grantor trust has a joint filing status as defined in Section
9665 59-10-1018, the amount described in Subsection (1)(d)(ii).
- 9666 (e) "Owner of the grantor trust" means the same as that term is defined in Section [
9667 ~~53B-8a-102.5~~] 53H-10-201.
- 9668 (f) "Qualified investment" means the same as that term is defined in Section [
9669 ~~53B-8a-102.5~~] 53H-10-201.
- 9670 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this
9671 section, a claimant, estate, or trust that is an account owner may claim a nonrefundable
9672 tax credit equal to the product of:
- 9673 (a) the amount of a qualified investment made:
- 9674 (i) during the taxable year; and
- 9675 (ii) into an account owned by the claimant, estate, or trust; and
- 9676 (b) the percentage listed in Subsection 59-10-104(2).
- 9677 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may
9678 make a qualified investment described in Subsection (2).
- 9679 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this
9680 section with respect to any portion of a qualified investment described in Subsection (2)
9681 that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
9682 income tax return.
- 9683 (5) A tax credit under this section may not exceed the maximum amount of a qualified
9684 investment for the taxable year.

- (6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

Section 131. Section **59-10-1313** is amended to read:

59-10-1313 (Effective upon governor's approval). Contribution to a Utah Educational Savings Plan account.

- (1)(a) If a resident or nonresident individual is owed an individual income tax refund for the taxable year, the individual may designate on the resident or nonresident individual's income tax return a contribution to a Utah Educational Savings Plan account established under [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~] Title 53H, Chapter 10, Utah Education Savings, as provided in this part.

- (b) If a resident or nonresident individual is not owed an individual income tax refund for the taxable year, the individual may not designate on the resident or nonresident's individual income tax return a contribution to a Utah Educational Savings Plan account.

- (2)(a) The commission shall send the contribution to the Utah Educational Savings Plan along with the following information:

(i) the amount of the individual income tax refund; and

(ii) the taxpayer's:

(A) name;

(B) [~~Social Security~~] social security number or taxpayer identification number; and

(C) address.

- (b) The commission shall provide the taxpayer's telephone number and number of dependents claimed, as requested, to the Utah Educational Savings Plan.

- (c) If a contribution to a Utah Educational Savings Plan account is designated in a single individual income tax return filed jointly by a husband and wife, the commission shall send the information described under Subsection (2)(a) or (b) for both the husband and wife to the Utah Educational Savings Plan.

- (3)(a) If the taxpayer owns a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall deposit the contribution into the account.

- (b) If the taxpayer owns more than one Utah Educational Savings Plan account, the Utah Educational Savings Plan shall allocate the contribution among the accounts in equal amounts.

- (c)(i) If the taxpayer does not own a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall send the taxpayer an account agreement.

9719 (ii) If the taxpayer does not sign and return the account agreement by the date
9720 specified by the Utah Educational Savings Plan, the Utah Educational Savings
9721 Plan shall return the contribution to the taxpayer without any interest or earnings.

9722 (4) For the purpose of determining interest on an overpayment or refund under Section
9723 59-1-402, no interest accrues after the commission sends the contribution to the Utah
9724 Educational Savings Plan.

9725 Section 132. Section **59-12-102** is amended to read:

9726 **59-12-102 (Effective upon governor's approval) (Superseded 07/01/26).**

9727 **Definitions.**

9728 As used in this chapter:

9729 (1) "800 service" means a telecommunications service that:

9730 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

9731 (b) is typically marketed:

9732 (i) under the name 800 toll-free calling;

9733 (ii) under the name 855 toll-free calling;

9734 (iii) under the name 866 toll-free calling;

9735 (iv) under the name 877 toll-free calling;

9736 (v) under the name 888 toll-free calling; or

9737 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
9738 Federal Communications Commission.

9739 (2)(a) "900 service" means an inbound toll telecommunications service that:

9740 (i) a subscriber purchases;

9741 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
9742 the subscriber's:

9743 (A) prerecorded announcement; or

9744 (B) live service; and

9745 (iii) is typically marketed:

9746 (A) under the name 900 service; or

9747 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
9748 Communications Commission.

9749 (b) "900 service" does not include a charge for:

9750 (i) a collection service a seller of a telecommunications service provides to a
9751 subscriber; or

9752 (ii) the following a subscriber sells to the subscriber's customer:

- 9753 (A) a product; or
9754 (B) a service.
- 9755 (3)(a) "Adaptive driving equipment" means mobility enhancing equipment:
9756 (i) to be installed in a motor vehicle; and
9757 (ii) regardless of who provides the equipment or parts.
- 9758 (b) "Adaptive driving equipment" includes:
9759 (i) a wheelchair or scooter lift;
9760 (ii) equipment to secure a wheelchair;
9761 (iii) a swivel seat;
9762 (iv) a hand or foot control; and
9763 (v) a steering aid.
- 9764 (4)(a) "Admission or user fees" includes season passes.
9765 (b) "Admission or user fees" does not include:
9766 (i) annual membership dues to private organizations; or
9767 (ii) a lesson, including a lesson that involves as part of the lesson equipment or a
9768 facility listed in Subsection 59-12-103(1)(f).
- 9769 (5) "Affiliate" or "affiliated person" means a person that, with respect to another person:
9770 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
9771 person; or
9772 (b) is related to the other person because a third person, or a group of third persons who
9773 are affiliated persons with respect to each other, holds an ownership interest of more
9774 than 5%, whether direct or indirect, in the related persons.
- 9775 (6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
9776 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
9777 Agreement after November 12, 2002.
- 9778 (7) "Agreement combined tax rate" means the sum of the tax rates:
9779 (a) listed under Subsection (8); and
9780 (b) that are imposed within a local taxing jurisdiction.
- 9781 (8) "Agreement sales and use tax" means a tax imposed under:
9782 (a) Subsection 59-12-103(2)(a)(i)(A);
9783 (b) Subsection 59-12-103(2)(b)(i);
9784 (c) Subsection 59-12-103(2)(c)(i);
9785 (d) Subsection 59-12-103(2)(d);
9786 (e) Subsection 59-12-103(2)(f)(i)(A)(I);

- 9787 (f) Section 59-12-204;
- 9788 (g) Section 59-12-401;
- 9789 (h) Section 59-12-402;
- 9790 (i) Section 59-12-402.1;
- 9791 (j) Section 59-12-703;
- 9792 (k) Section 59-12-802;
- 9793 (l) Section 59-12-804;
- 9794 (m) Section 59-12-1102;
- 9795 (n) Section 59-12-1302;
- 9796 (o) Section 59-12-1402;
- 9797 (p) Section 59-12-1802;
- 9798 (q) Section 59-12-2003;
- 9799 (r) Section 59-12-2103;
- 9800 (s) Section 59-12-2213;
- 9801 (t) Section 59-12-2214;
- 9802 (u) Section 59-12-2215;
- 9803 (v) Section 59-12-2216;
- 9804 (w) Section 59-12-2217;
- 9805 (x) Section 59-12-2218;
- 9806 (y) Section 59-12-2219; or
- 9807 (z) Section 59-12-2220.
- 9808 (9) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 9809 (10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 9810 (a) except for:
- 9811 (i) an airline as defined in Section 59-2-102; or
- 9812 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 9813 includes a corporation that is qualified to do business but is not otherwise doing
- 9814 business in the state, of an airline; and
- 9815 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 9816 whether the business entity performs the following in this state:
- 9817 (i) check, diagnose, overhaul, and repair:
- 9818 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 9819 (B) the parts that comprise an onboard system of a fixed wing turbine powered
- 9820 aircraft;

- 9821 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered
9822 aircraft engine;
- 9823 (iii) perform at least the following maintenance on a fixed wing turbine powered
9824 aircraft:
- 9825 (A) an inspection;
- 9826 (B) a repair, including a structural repair or modification;
- 9827 (C) changing landing gear; and
- 9828 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 9829 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft
9830 and completely apply new paint to the fixed wing turbine powered aircraft; and
- 9831 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
9832 results in a change in the fixed wing turbine powered aircraft's certification
9833 requirements by the authority that certifies the fixed wing turbine powered aircraft.
- 9834 (11) "Alcoholic beverage" means a beverage that:
- 9835 (a) is suitable for human consumption; and
- 9836 (b) contains .5% or more alcohol by volume.
- 9837 (12) "Alternative energy" means:
- 9838 (a) biomass energy;
- 9839 (b) geothermal energy;
- 9840 (c) hydroelectric energy;
- 9841 (d) solar energy;
- 9842 (e) wind energy; or
- 9843 (f) energy that is derived from:
- 9844 (i) coal-to-liquids;
- 9845 (ii) nuclear fuel;
- 9846 (iii) oil-impregnated diatomaceous earth;
- 9847 (iv) oil sands;
- 9848 (v) oil shale;
- 9849 (vi) petroleum coke; or
- 9850 (vii) waste heat from:
- 9851 (A) an industrial facility; or
- 9852 (B) a power station in which an electric generator is driven through a process in
9853 which water is heated, turns into steam, and spins a steam turbine.
- 9854 (13)(a) Subject to Subsection (13)(b), "alternative energy electricity production facility"

- 9855 means a facility that:
- 9856 (i) uses alternative energy to produce electricity; and
- 9857 (ii) has a production capacity of two megawatts or greater.
- 9858 (b) A facility is an alternative energy electricity production facility regardless of whether
- 9859 the facility is:
- 9860 (i) connected to an electric grid; or
- 9861 (ii) located on the premises of an electricity consumer.
- 9862 (14)(a) "Ancillary service" means a service associated with, or incidental to, the
- 9863 provision of telecommunications service.
- 9864 (b) "Ancillary service" includes:
- 9865 (i) a conference bridging service;
- 9866 (ii) a detailed communications billing service;
- 9867 (iii) directory assistance;
- 9868 (iv) a vertical service; or
- 9869 (v) a voice mail service.
- 9870 (15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.
- 9871 (16) "Assisted amusement device" means an amusement device, skill device, or ride device
- 9872 that is started and stopped by an individual:
- 9873 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 9874 device, skill device, or ride device; and
- 9875 (b) at the direction of the seller of the right to use the amusement device, skill device, or
- 9876 ride device.
- 9877 (17) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 9878 washing of tangible personal property if the cleaning or washing labor is primarily
- 9879 performed by an individual:
- 9880 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;
- 9881 and
- 9882 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 9883 property.
- 9884 (18) "Authorized carrier" means:
- 9885 (a) in the case of vehicles operated over public highways, the holder of credentials
- 9886 indicating that the vehicle is or will be operated pursuant to both the International
- 9887 Registration Plan and the International Fuel Tax Agreement;
- 9888 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

- 9889 certificate or air carrier's operating certificate; or
- 9890 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 9891 stock, a person who uses locomotives, freight cars, railroad work equipment, or other
- 9892 rolling stock in more than one state.
- 9893 (19)(a) "Biomass energy" means any of the following that is used as the primary source
- 9894 of energy to produce fuel or electricity:
- 9895 (i) material from a plant or tree; or
- 9896 (ii) other organic matter that is available on a renewable basis, including:
- 9897 (A) slash and brush from forests and woodlands;
- 9898 (B) animal waste;
- 9899 (C) waste vegetable oil;
- 9900 (D) methane or synthetic gas produced at a landfill, as a byproduct of the
- 9901 treatment of wastewater residuals, or through the conversion of a waste
- 9902 material through a nonincineration, thermal conversion process;
- 9903 (E) aquatic plants; and
- 9904 (F) agricultural products.
- 9905 (b) "Biomass energy" does not include:
- 9906 (i) black liquor; or
- 9907 (ii) treated woods.
- 9908 (20)(a) "Bundled transaction" means the sale of two or more items of tangible personal
- 9909 property, products, or services if the tangible personal property, products, or services
- 9910 are:
- 9911 (i) distinct and identifiable; and
- 9912 (ii) sold for one nonitemized price.
- 9913 (b) "Bundled transaction" does not include:
- 9914 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 9915 the basis of the selection by the purchaser of the items of tangible personal
- 9916 property included in the transaction;
- 9917 (ii) the sale of real property;
- 9918 (iii) the sale of services to real property;
- 9919 (iv) the retail sale of tangible personal property and a service if:
- 9920 (A) the tangible personal property:
- 9921 (I) is essential to the use of the service; and
- 9922 (II) is provided exclusively in connection with the service; and

- 9923 (B) the service is the true object of the transaction;
- 9924 (v) the retail sale of two services if:
- 9925 (A) one service is provided that is essential to the use or receipt of a second
- 9926 service;
- 9927 (B) the first service is provided exclusively in connection with the second service;
- 9928 and
- 9929 (C) the second service is the true object of the transaction;
- 9930 (vi) a transaction that includes tangible personal property or a product subject to
- 9931 taxation under this chapter and tangible personal property or a product that is not
- 9932 subject to taxation under this chapter if the:
- 9933 (A) seller's purchase price of the tangible personal property or product subject to
- 9934 taxation under this chapter is de minimis; or
- 9935 (B) seller's sales price of the tangible personal property or product subject to
- 9936 taxation under this chapter is de minimis; and
- 9937 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 9938 this chapter and tangible personal property that is subject to taxation under this
- 9939 chapter if:
- 9940 (A) that retail sale includes:
- 9941 (I) food and food ingredients;
- 9942 (II) a drug;
- 9943 (III) durable medical equipment;
- 9944 (IV) mobility enhancing equipment;
- 9945 (V) an over-the-counter drug;
- 9946 (VI) a prosthetic device; or
- 9947 (VII) a medical supply; and
- 9948 (B) subject to Subsection (20)(f):
- 9949 (I) the seller's purchase price of the tangible personal property subject to
- 9950 taxation under this chapter is 50% or less of the seller's total purchase price
- 9951 of that retail sale; or
- 9952 (II) the seller's sales price of the tangible personal property subject to taxation
- 9953 under this chapter is 50% or less of the seller's total sales price of that retail
- 9954 sale.
- 9955 (c)(i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or
- 9956 a service that is distinct and identifiable does not include:

- 9957 (A) packaging that:
- 9958 (I) accompanies the sale of the tangible personal property, product, or service;
- 9959 and
- 9960 (II) is incidental or immaterial to the sale of the tangible personal property,
- 9961 product, or service;
- 9962 (B) tangible personal property, a product, or a service provided free of charge with
- 9963 the purchase of another item of tangible personal property, a product, or a
- 9964 service; or
- 9965 (C) an item of tangible personal property, a product, or a service included in the
- 9966 definition of "purchase price."
- 9967 (ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a
- 9968 product, or a service is provided free of charge with the purchase of another item
- 9969 of tangible personal property, a product, or a service if the sales price of the
- 9970 purchased item of tangible personal property, product, or service does not vary
- 9971 depending on the inclusion of the tangible personal property, product, or service
- 9972 provided free of charge.
- 9973 (d)(i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price
- 9974 does not include a price that is separately identified by tangible personal property,
- 9975 product, or service on the following, regardless of whether the following is in
- 9976 paper format or electronic format:
- 9977 (A) a binding sales document; or
- 9978 (B) another supporting sales-related document that is available to a purchaser.
- 9979 (ii) For purposes of Subsection (20)(d)(i), a binding sales document or another
- 9980 supporting sales-related document that is available to a purchaser includes:
- 9981 (A) a bill of sale;
- 9982 (B) a contract;
- 9983 (C) an invoice;
- 9984 (D) a lease agreement;
- 9985 (E) a periodic notice of rates and services;
- 9986 (F) a price list;
- 9987 (G) a rate card;
- 9988 (H) a receipt; or
- 9989 (I) a service agreement.
- 9990 (e)(i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal

property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (20)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(21) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(23) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (23)(a)(i).

(24) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124

to remit a tax on the seller's own purchases.

(25)(a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (61) or residential use under Subsection (117).

(28)(a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b)(i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(29) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(30) "Computer" means an electronic device that accepts information:

(a)(i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

- 10059 (31) "Computer software" means a set of coded instructions designed to cause:
10060 (a) a computer to perform a task; or
10061 (b) automatic data processing equipment to perform a task.
- 10062 (32) "Computer software maintenance contract" means a contract that obligates a seller of
10063 computer software to provide a customer with:
10064 (a) future updates or upgrades to computer software;
10065 (b) support services with respect to computer software; or
10066 (c) a combination of Subsections (32)(a) and (b).
- 10067 (33)(a) "Conference bridging service" means an ancillary service that links two or more
10068 participants of an audio conference call or video conference call.
10069 (b) "Conference bridging service" may include providing a telephone number as part of
10070 the ancillary service described in Subsection (33)(a).
10071 (c) "Conference bridging service" does not include a telecommunications service used to
10072 reach the ancillary service described in Subsection (33)(a).
- 10073 (34) "Construction materials" means any tangible personal property that will be converted
10074 into real property.
- 10075 (35) "Delivered electronically" means delivered to a purchaser by means other than tangible
10076 storage media.
- 10077 (36)(a) "Delivery charge" means a charge:
10078 (i) by a seller of:
10079 (A) tangible personal property;
10080 (B) a product transferred electronically; or
10081 (C) a service; and
10082 (ii) for preparation and delivery of the tangible personal property, product transferred
10083 electronically, or services described in Subsection (36)(a)(i) to a location
10084 designated by the purchaser.
- 10085 (b) "Delivery charge" includes a charge for the following:
10086 (i) transportation;
10087 (ii) shipping;
10088 (iii) postage;
10089 (iv) handling;
10090 (v) crating; or
10091 (vi) packing.
- 10092 (37) "Detailed telecommunications billing service" means an ancillary service of separately

10093 stating information pertaining to individual calls on a customer's billing statement.

10094 (38) "Dietary supplement" means a product, other than tobacco, that:

10095 (a) is intended to supplement the diet;

10096 (b) contains one or more of the following dietary ingredients:

10097 (i) a vitamin;

10098 (ii) a mineral;

10099 (iii) an herb or other botanical;

10100 (iv) an amino acid;

10101 (v) a dietary substance for use by humans to supplement the diet by increasing the
10102 total dietary intake; or

10103 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
10104 described in Subsections (38)(b)(i) through (v);

10105 (c)(i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:

10106 (A) tablet form;

10107 (B) capsule form;

10108 (C) powder form;

10109 (D) softgel form;

10110 (E) gelcap form; or

10111 (F) liquid form; or

10112 (ii) if the product is not intended for ingestion in a form described in Subsections
10113 (38)(c)(i)(A) through (F), is not represented:

10114 (A) as conventional food; and

10115 (B) for use as a sole item of:

10116 (I) a meal; or

10117 (II) the diet; and

10118 (d) is required to be labeled as a dietary supplement:

10119 (i) identifiable by the "Supplemental Facts" box found on the label; and

10120 (ii) as required by 21 C.F.R. Sec. 101.36.

10121 (39)(a) "Digital audio work" means a work that results from the fixation of a series of
10122 musical, spoken, or other sounds.

10123 (b) "Digital audio work" includes a ringtone.

10124 (40) "Digital audio-visual work" means a series of related images which, when shown in
10125 succession, imparts an impression of motion, together with accompanying sounds, if any.

10126 (41) "Digital book" means a work that is generally recognized in the ordinary and usual

sense as a book.

(42)(a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(43) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(44)(a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (44)(a)(ii)(A) through

(C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

- 10161 (B) contact lenses.
- 10162 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 10163 commission may by rule define what constitutes medical equipment or supplies.
- 10164 (45) "Drilling equipment manufacturer" means a facility:
- 10165 (a) located in the state;
- 10166 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 10167 consist of manufacturing component parts of drilling equipment;
- 10168 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 10169 manufacturing process; and
- 10170 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 10171 manufacturing process.
- 10172 (46)(a) "Drug" means a compound, substance, or preparation, or a component of a
- 10173 compound, substance, or preparation that is:
- 10174 (i) recognized in:
- 10175 (A) the official United States Pharmacopoeia;
- 10176 (B) the official Homeopathic Pharmacopoeia of the United States;
- 10177 (C) the official National Formulary; or
- 10178 (D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);
- 10179 (ii) intended for use in the:
- 10180 (A) diagnosis of disease;
- 10181 (B) cure of disease;
- 10182 (C) mitigation of disease;
- 10183 (D) treatment of disease; or
- 10184 (E) prevention of disease; or
- 10185 (iii) intended to affect:
- 10186 (A) the structure of the body; or
- 10187 (B) any function of the body.
- 10188 (b) "Drug" does not include:
- 10189 (i) food and food ingredients;
- 10190 (ii) a dietary supplement;
- 10191 (iii) an alcoholic beverage; or
- 10192 (iv) a prosthetic device.
- 10193 (47)(a) "Durable medical equipment" means equipment that:
- 10194 (i) can withstand repeated use;

- 10195 (ii) is primarily and customarily used to serve a medical purpose;
10196 (iii) generally is not useful to a person in the absence of illness or injury; and
10197 (iv) is not worn in or on the body.
- 10198 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
10199 equipment described in Subsection (47)(a).
- 10200 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 10201 (48) "Electronic" means:
- 10202 (a) relating to technology; and
10203 (b) having:
- 10204 (i) electrical capabilities;
10205 (ii) digital capabilities;
10206 (iii) magnetic capabilities;
10207 (iv) wireless capabilities;
10208 (v) optical capabilities;
10209 (vi) electromagnetic capabilities; or
10210 (vii) capabilities similar to Subsections (48)(b)(i) through (vi).
- 10211 (49) "Electronic financial payment service" means an establishment:
- 10212 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
10213 Clearinghouse Activities, of the 2012 North American Industry Classification System
10214 of the federal Executive Office of the President, Office of Management and Budget;
10215 and
10216 (b) that performs electronic financial payment services.
- 10217 (50) "Employee" means the same as that term is defined in Section 59-10-401.
- 10218 (51) "Fixed guideway" means a public transit facility that uses and occupies:
- 10219 (a) rail for the use of public transit; or
10220 (b) a separate right-of-way for the use of public transit.
- 10221 (52) "Fixed wing turbine powered aircraft" means an aircraft that:
- 10222 (a) is powered by turbine engines;
10223 (b) operates on jet fuel; and
10224 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 10225 (53) "Fixed wireless service" means a telecommunications service that provides radio
10226 communication between fixed points.
- 10227 (54)(a) "Food and food ingredients" means substances:
10228 (i) regardless of whether the substances are in:

- 10229 (A) liquid form;
- 10230 (B) concentrated form;
- 10231 (C) solid form;
- 10232 (D) frozen form;
- 10233 (E) dried form; or
- 10234 (F) dehydrated form; and
- 10235 (ii) that are:
 - 10236 (A) sold for:
 - 10237 (I) ingestion by humans; or
 - 10238 (II) chewing by humans; and
 - 10239 (B) consumed for the substance's:
 - 10240 (I) taste; or
 - 10241 (II) nutritional value.
- 10242 (b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).
- 10243 (c) "Food and food ingredients" does not include:
 - 10244 (i) an alcoholic beverage;
 - 10245 (ii) tobacco; or
 - 10246 (iii) prepared food.
- 10247 (55)(a) "Fundraising sales" means sales:
 - 10248 (i)(A) made by a school; or
 - 10249 (B) made by a school student;
 - 10250 (ii) that are for the purpose of raising funds for the school to purchase equipment,
 - 10251 materials, or provide transportation; and
 - 10252 (iii) that are part of an officially sanctioned school activity.
- 10253 (b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means
- 10254 a school activity:
 - 10255 (i) that is conducted in accordance with a formal policy adopted by the school or
 - 10256 school district governing the authorization and supervision of fundraising
 - 10257 activities;
 - 10258 (ii) that does not directly or indirectly compensate an individual teacher or other
 - 10259 educational personnel by direct payment, commissions, or payment in kind; and
 - 10260 (iii) the net or gross revenue from which is deposited in a dedicated account
 - 10261 controlled by the school or school district.
- 10262 (56) "Geothermal energy" means energy contained in heat that continuously flows outward

from the earth that is used as the sole source of energy to produce electricity.

(57) "Governing board of the agreement" means the governing board of the agreement that is:

- (a) authorized to administer the agreement; and
- (b) established in accordance with the agreement.

(58)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

- (i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;
- (ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;
- (iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
- (iv) the National Guard;
- (v) an independent entity as defined in Section 63E-1-102; or
- (vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

- (i) a school;
- (ii) the State Board of Education;
- (iii) the Utah Board of Higher Education; or
- (iv) an institution of higher education [~~described~~] listed in Section [~~53B-1-102~~] 53H-1-102.

(59) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(60) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- 10297 (i) commercial greenhouses;
- 10298 (ii) irrigation pumps;
- 10299 (iii) farm machinery;
- 10300 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
- 10301 under Title 41, Chapter 1a, Part 2, Registration; and
- 10302 (v) other farming activities;
- 10303 (c) in manufacturing tangible personal property at an establishment described in:
- 10304 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 10305 the federal Executive Office of the President, Office of Management and Budget;
- 10306 or
- 10307 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
- 10308 American Industry Classification System of the federal Executive Office of the
- 10309 President, Office of Management and Budget;
- 10310 (d) by a scrap recycler if:
- 10311 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
- 10312 process one or more of the following items into prepared grades of processed
- 10313 materials for use in new products:
- 10314 (A) iron;
- 10315 (B) steel;
- 10316 (C) nonferrous metal;
- 10317 (D) paper;
- 10318 (E) glass;
- 10319 (F) plastic;
- 10320 (G) textile; or
- 10321 (H) rubber; and
- 10322 (ii) the new products under Subsection (61)(d)(i) would otherwise be made with
- 10323 nonrecycled materials; or
- 10324 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 10325 cogeneration facility as defined in Section 54-2-1.
- 10326 (62)(a) "Installation charge" means a charge for installing:
- 10327 (i) tangible personal property; or
- 10328 (ii) a product transferred electronically.
- 10329 (b) "Installation charge" does not include a charge for:
- 10330 (i) repairs or renovations of:

- 10331 (A) tangible personal property; or
10332 (B) a product transferred electronically; or
10333 (ii) attaching tangible personal property or a product transferred electronically:
10334 (A) to other tangible personal property; and
10335 (B) as part of a manufacturing or fabrication process.
- 10336 (63) "Institution of higher education" means an institution of higher education listed in
10337 Section ~~[53B-2-101]~~ 53H-1-102.
- 10338 (64)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal
10339 property or a product transferred electronically for:
10340 (i)(A) a fixed term; or
10341 (B) an indeterminate term; and
10342 (ii) consideration.
- 10343 (b) "Lease" or "rental" includes:
10344 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
10345 may be increased or decreased by reference to the amount realized upon sale or
10346 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
10347 Code; and
10348 (ii) car sharing.
- 10349 (c) "Lease" or "rental" does not include:
10350 (i) a transfer of possession or control of property under a security agreement or
10351 deferred payment plan that requires the transfer of title upon completion of the
10352 required payments;
10353 (ii) a transfer of possession or control of property under an agreement that requires
10354 the transfer of title:
10355 (A) upon completion of required payments; and
10356 (B) if the payment of an option price does not exceed the greater of:
10357 (I) \$100; or
10358 (II) 1% of the total required payments; or
10359 (iii) providing tangible personal property along with an operator for a fixed period of
10360 time or an indeterminate period of time if the operator is necessary for equipment
10361 to perform as designed.
- 10362 (d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to
10363 perform as designed if the operator's duties exceed the:
10364 (i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(65) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(66) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(67) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(69) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(71) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed

- 10399 materials for use in new products:
- 10400 (A) iron;
- 10401 (B) steel;
- 10402 (C) nonferrous metal;
- 10403 (D) paper;
- 10404 (E) glass;
- 10405 (F) plastic;
- 10406 (G) textile; or
- 10407 (H) rubber; and
- 10408 (ii) the new products under Subsection (71)(b)(i) would otherwise be made with
- 10409 nonrecycled materials; or
- 10410 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
- 10411 placed in service on or after May 1, 2006.
- 10412 (72)(a) "Marketplace" means a physical or electronic place, platform, or forum where
- 10413 tangible personal property, a product transferred electronically, or a service is offered
- 10414 for sale.
- 10415 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated
- 10416 sales software application.
- 10417 (73)(a) "Marketplace facilitator" means a person, including an affiliate of the person,
- 10418 that enters into a contract, an agreement, or otherwise with sellers, for consideration,
- 10419 to facilitate the sale of a seller's product through a marketplace that the person owns,
- 10420 operates, or controls and that directly or indirectly:
- 10421 (i) does any of the following:
- 10422 (A) lists, makes available, or advertises tangible personal property, a product
- 10423 transferred electronically, or a service for sale by a marketplace seller on a
- 10424 marketplace that the person owns, operates, or controls;
- 10425 (B) facilitates the sale of a marketplace seller's tangible personal property, product
- 10426 transferred electronically, or service by transmitting or otherwise
- 10427 communicating an offer or acceptance of a retail sale between the marketplace
- 10428 seller and a purchaser using the marketplace;
- 10429 (C) owns, rents, licenses, makes available, or operates any electronic or physical
- 10430 infrastructure or any property, process, method, copyright, trademark, or patent
- 10431 that connects a marketplace seller to a purchaser for the purpose of making a
- 10432 retail sale of tangible personal property, a product transferred electronically, or

- 10433 a service;
- 10434 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of
- 10435 tangible personal property, a product transferred electronically, or a service,
- 10436 regardless of ownership or control of the tangible personal property, the
- 10437 product transferred electronically, or the service that is the subject of the retail
- 10438 sale;
- 10439 (E) provides software development or research and development activities related
- 10440 to any activity described in this Subsection (73)(a)(i), if the software
- 10441 development or research and development activity is directly related to the
- 10442 person's marketplace;
- 10443 (F) provides or offers fulfillment or storage services for a marketplace seller;
- 10444 (G) sets prices for the sale of tangible personal property, a product transferred
- 10445 electronically, or a service by a marketplace seller;
- 10446 (H) provides or offers customer service to a marketplace seller or a marketplace
- 10447 seller's purchaser or accepts or assists with taking orders, returns, or exchanges
- 10448 of tangible personal property, a product transferred electronically, or a service
- 10449 sold by a marketplace seller on the person's marketplace; or
- 10450 (I) brands or otherwise identifies sales as those of the person; and
- 10451 (ii) does any of the following:
- 10452 (A) collects the sales price or purchase price of a retail sale of tangible personal
- 10453 property, a product transferred electronically, or a service;
- 10454 (B) provides payment processing services for a retail sale of tangible personal
- 10455 property, a product transferred electronically, or a service;
- 10456 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
- 10457 closing fee, a fee for inserting or making available tangible personal property, a
- 10458 product transferred electronically, or a service on the person's marketplace, or
- 10459 other consideration for the facilitation of a retail sale of tangible personal
- 10460 property, a product transferred electronically, or a service, regardless of
- 10461 ownership or control of the tangible personal property, the product transferred
- 10462 electronically, or the service that is the subject of the retail sale;
- 10463 (D) through terms and conditions, an agreement, or another arrangement with a
- 10464 third person, collects payment from a purchase for a retail sale of tangible
- 10465 personal property, a product transferred electronically, or a service and
- 10466 transmits that payment to the marketplace seller, regardless of whether the

- 10467 third person receives compensation or other consideration in exchange for the
10468 service; or
- 10469 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
10470 property, a product transferred electronically, or service offered for sale.
- 10471 (b) "Marketplace facilitator" does not include:
- 10472 (i) a person that only provides payment processing services; or
- 10473 (ii) a person described in Subsection (73)(a) to the extent the person is facilitating a
10474 sale for a seller that is a restaurant as defined in Section 59-12-602.
- 10475 (74) "Marketplace seller" means a seller that makes one or more retail sales through a
10476 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
10477 whether the seller is required to be registered to collect and remit the tax under this part.
- 10478 (75) "Member of the immediate family of the producer" means a person who is related to a
10479 producer described in Subsection 59-12-104(20)(a) as a:
- 10480 (a) child or stepchild, regardless of whether the child or stepchild is:
- 10481 (i) an adopted child or adopted stepchild; or
- 10482 (ii) a foster child or foster stepchild;
- 10483 (b) grandchild or stepgrandchild;
- 10484 (c) grandparent or stepgrandparent;
- 10485 (d) nephew or stepnephew;
- 10486 (e) niece or stepniece;
- 10487 (f) parent or stepparent;
- 10488 (g) sibling or stepsibling;
- 10489 (h) spouse;
- 10490 (i) person who is the spouse of a person described in Subsections (75)(a) through (g); or
- 10491 (j) person similar to a person described in Subsections (75)(a) through (i) as determined
10492 by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
10493 Administrative Rulemaking Act.
- 10494 (76) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 10495 (77) "Mobile telecommunications service" means the same as that term is defined in the
10496 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 10497 (78)(a) "Mobile wireless service" means a telecommunications service, regardless of the
10498 technology used, if:
- 10499 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 10500 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (78)(a)(i) and the termination point described in Subsection (78)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(79)(a) "Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (79)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(80) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(81) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (81)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(82)(a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under the agreement that has:

- 10535 (i) sales in at least five states that are members of the agreement;
10536 (ii) total annual sales revenue of at least \$500,000,000;
10537 (iii) a proprietary system that calculates the amount of tax:
10538 (A) for an agreement sales and use tax; and
10539 (B) due to each local taxing jurisdiction; and
10540 (iv) entered into a performance agreement with the governing board of the agreement.

10541 (b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of
10542 sellers using the same proprietary system.

10543 (83) "Model 4 seller" means a seller that is registered under the agreement and is not a
10544 model 1 seller, model 2 seller, or model 3 seller.

10545 (84) "Modular home" means a modular unit as defined in Section 15A-1-302.

10546 (85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

10547 (86) "Oil sands" means impregnated bituminous sands that:

- 10548 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
10549 other hydrocarbons, or otherwise treated;
10550 (b) yield mixtures of liquid hydrocarbon; and
10551 (c) require further processing other than mechanical blending before becoming finished
10552 petroleum products.

10553 (87) "Oil shale" means a group of fine black to dark brown shales containing kerogen
10554 material that yields petroleum upon heating and distillation.

10555 (88) "Optional computer software maintenance contract" means a computer software
10556 maintenance contract that a customer is not obligated to purchase as a condition to the
10557 retail sale of computer software.

10558 (89)(a) "Other fuels" means products that burn independently to produce heat or energy.

10559 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
10560 personal property.

10561 (90)(a) "Paging service" means a telecommunications service that provides transmission
10562 of a coded radio signal for the purpose of activating a specific pager.

10563 (b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes
10564 a transmission by message or sound.

10565 (91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

10566 (92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

10567 (93)(a) "Permanently attached to real property" means that for tangible personal property
10568 attached to real property:

- 10569 (i) the attachment of the tangible personal property to the real property:
- 10570 (A) is essential to the use of the tangible personal property; and
- 10571 (B) suggests that the tangible personal property will remain attached to the real
- 10572 property in the same place over the useful life of the tangible personal
- 10573 property; or
- 10574 (ii) if the tangible personal property is detached from the real property, the
- 10575 detachment would:
- 10576 (A) cause substantial damage to the tangible personal property; or
- 10577 (B) require substantial alteration or repair of the real property to which the
- 10578 tangible personal property is attached.
- 10579 (b) "Permanently attached to real property" includes:
- 10580 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 10581 (A) essential to the operation of the tangible personal property; and
- 10582 (B) attached only to facilitate the operation of the tangible personal property;
- 10583 (ii) a temporary detachment of tangible personal property from real property for a
- 10584 repair or renovation if the repair or renovation is performed where the tangible
- 10585 personal property and real property are located; or
- 10586 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 10587 Subsection (93)(c)(iii) or (iv).
- 10588 (c) "Permanently attached to real property" does not include:
- 10589 (i) the attachment of portable or movable tangible personal property to real property
- 10590 if that portable or movable tangible personal property is attached to real property
- 10591 only for:
- 10592 (A) convenience;
- 10593 (B) stability; or
- 10594 (C) for an obvious temporary purpose;
- 10595 (ii) the detachment of tangible personal property from real property except for the
- 10596 detachment described in Subsection (93)(b)(ii);
- 10597 (iii) an attachment of the following tangible personal property to real property if the
- 10598 attachment to real property is only through a line that supplies water, electricity,
- 10599 gas, telecommunications, cable, or supplies a similar item as determined by the
- 10600 commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 10601 Administrative Rulemaking Act:
- 10602 (A) a computer;

- 10603 (B) a telephone;
10604 (C) a television; or
10605 (D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C)
10606 as determined by the commission by rule made in accordance with Title 63G,
10607 Chapter 3, Utah Administrative Rulemaking Act; or
10608 (iv) an item listed in Subsection (139)(c).
- 10609 (94) "Person" includes any individual, firm, partnership, joint venture, association,
10610 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
10611 municipality, district, or other local governmental entity of the state, or any group or
10612 combination acting as a unit.
- 10613 (95) "Place of primary use":
10614 (a) for telecommunications service other than mobile telecommunications service,
10615 means the street address representative of where the customer's use of the
10616 telecommunications service primarily occurs, which shall be:
10617 (i) the residential street address of the customer; or
10618 (ii) the primary business street address of the customer; or
10619 (b) for mobile telecommunications service, means the same as that term is defined in the
10620 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 10621 (96)(a) "Postpaid calling service" means a telecommunications service a person obtains
10622 by making a payment on a call-by-call basis:
10623 (i) through the use of a:
10624 (A) bank card;
10625 (B) credit card;
10626 (C) debit card; or
10627 (D) travel card; or
10628 (ii) by a charge made to a telephone number that is not associated with the origination
10629 or termination of the telecommunications service.
- 10630 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
10631 service, that would be a prepaid wireless calling service if the service were
10632 exclusively a telecommunications service.
- 10633 (97) "Postproduction" means an activity related to the finishing or duplication of a medium
10634 described in Subsection 59-12-104(54)(a).
- 10635 (98) "Prepaid calling service" means a telecommunications service:
10636 (a) that allows a purchaser access to telecommunications service that is exclusively

telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(100)(a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (100)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii)(A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (100)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

10705 (I) by weight or volume; and

10706 (II) as a single item; or

10707 (C) a bakery item, including:

10708 (I) a bagel;

10709 (II) a bar;

10710 (III) a biscuit;

10711 (IV) bread;

10712 (V) a bun;

10713 (VI) a cake;

10714 (VII) a cookie;

10715 (VIII) a croissant;

10716 (IX) a danish;

10717 (X) a donut;

10718 (XI) a muffin;

10719 (XII) a pastry;

10720 (XIII) a pie;

10721 (XIV) a roll;

10722 (XV) a tart;

10723 (XVI) a torte; or

10724 (XVII) a tortilla.

10725 (c) An eating utensil provided by the seller does not include the following used to
10726 transport the food:

10727 (i) a container; or

10728 (ii) packaging.

10729 (101) "Prescription" means an order, formula, or recipe that is issued:

10730 (a)(i) orally;

10731 (ii) in writing;

10732 (iii) electronically; or

10733 (iv) by any other manner of transmission; and

10734 (b) by a licensed practitioner authorized by the laws of a state.

10735 (102)(a) "Prewritten computer software" means computer software that is not designed
10736 and developed:

10737 (i) by the author or other creator of the computer software; and

10738 (ii) to the specifications of a specific purchaser.

- 10739 (b) "Prewritten computer software" includes:
- 10740 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
- 10741 computer software is not designed and developed:
- 10742 (A) by the author or other creator of the computer software; and
- 10743 (B) to the specifications of a specific purchaser;
- 10744 (ii) computer software designed and developed by the author or other creator of the
- 10745 computer software to the specifications of a specific purchaser if the computer
- 10746 software is sold to a person other than the purchaser; or
- 10747 (iii) except as provided in Subsection (102)(c), prewritten computer software or a
- 10748 prewritten portion of prewritten computer software:
- 10749 (A) that is modified or enhanced to any degree; and
- 10750 (B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is
- 10751 designed and developed to the specifications of a specific purchaser.
- 10752 (c) "Prewritten computer software" does not include a modification or enhancement
- 10753 described in Subsection (102)(b)(iii) if the charges for the modification or
- 10754 enhancement are:
- 10755 (i) reasonable; and
- 10756 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
- 10757 invoice or other statement of price provided to the purchaser at the time of sale or
- 10758 later, as demonstrated by:
- 10759 (A) the books and records the seller keeps at the time of the transaction in the
- 10760 regular course of business, including books and records the seller keeps at the
- 10761 time of the transaction in the regular course of business for nontax purposes;
- 10762 (B) a preponderance of the facts and circumstances at the time of the transaction;
- 10763 and
- 10764 (C) the understanding of all of the parties to the transaction.
- 10765 (103)(a) "Private communications service" means a telecommunications service:
- 10766 (i) that entitles a customer to exclusive or priority use of one or more
- 10767 communications channels between or among termination points; and
- 10768 (ii) regardless of the manner in which the one or more communications channels are
- 10769 connected.
- 10770 (b) "Private communications service" includes the following provided in connection
- 10771 with the use of one or more communications channels:
- 10772 (i) an extension line;

- (ii) a station;
- (iii) switching capacity; or
- (iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(104)(a) "Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

- (i) an ancillary service;
- (ii) computer software; or
- (iii) a telecommunications service.

(105)(a) "Prosthetic device" means a device that is worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct a physical deformity or physical malfunction; or
- (iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

- (i) parts used in the repairs or renovation of a prosthetic device;
- (ii) replacement parts for a prosthetic device;
- (iii) a dental prosthesis; or
- (iv) a hearing aid.

(c) "Prosthetic device" does not include:

- (i) corrective eyeglasses; or
- (ii) contact lenses.

(106)(a) "Protective equipment" means an item:

- (i) for human wear; and
- (ii) that is:
 - (A) designed as protection:
 - (I) to the wearer against injury or disease; or
 - (II) against damage or injury of other persons or property; and
 - (B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "protective equipment"; and
- (ii) that are consistent with the list of items that constitute "protective equipment"

10807 under the agreement.

10808 (107)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or
10809 printed matter, other than a photocopy:

10810 (i) regardless of:

10811 (A) characteristics;

10812 (B) copyright;

10813 (C) form;

10814 (D) format;

10815 (E) method of reproduction; or

10816 (F) source; and

10817 (ii) made available in printed or electronic format.

10818 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
10819 commission may by rule define the term "photocopy."

10820 (108)(a) "Purchase price" and "sales price" mean the total amount of consideration:

10821 (i) valued in money; and

10822 (ii) for which tangible personal property, a product transferred electronically, or
10823 services are:

10824 (A) sold;

10825 (B) leased; or

10826 (C) rented.

10827 (b) "Purchase price" and "sales price" include:

10828 (i) the seller's cost of the tangible personal property, a product transferred
10829 electronically, or services sold;

10830 (ii) expenses of the seller, including:

10831 (A) the cost of materials used;

10832 (B) a labor cost;

10833 (C) a service cost;

10834 (D) interest;

10835 (E) a loss;

10836 (F) the cost of transportation to the seller; or

10837 (G) a tax imposed on the seller;

10838 (iii) a charge by the seller for any service necessary to complete the sale; or

10839 (iv) consideration a seller receives from a person other than the purchaser if:

10840 (A)(I) the seller actually receives consideration from a person other than the

- 10841 purchaser; and
- 10842 (II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly
- 10843 related to a price reduction or discount on the sale;
- 10844 (B) the seller has an obligation to pass the price reduction or discount through to
- 10845 the purchaser;
- 10846 (C) the amount of the consideration attributable to the sale is fixed and
- 10847 determinable by the seller at the time of the sale to the purchaser; and
- 10848 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
- 10849 documentation to the seller to claim a price reduction or discount; and
- 10850 (Bb) a person other than the seller authorizes, distributes, or grants the
- 10851 certificate, coupon, or other documentation with the understanding that
- 10852 the person other than the seller will reimburse any seller to whom the
- 10853 certificate, coupon, or other documentation is presented;
- 10854 (II) the purchaser identifies that purchaser to the seller as a member of a group
- 10855 or organization allowed a price reduction or discount, except that a
- 10856 preferred customer card that is available to any patron of a seller does not
- 10857 constitute membership in a group or organization allowed a price reduction
- 10858 or discount; or
- 10859 (III) the price reduction or discount is identified as a third party price reduction
- 10860 or discount on the:
- 10861 (Aa) invoice the purchaser receives; or
- 10862 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 10863 (c) "Purchase price" and "sales price" do not include:
- 10864 (i) a discount:
- 10865 (A) in a form including:
- 10866 (I) cash;
- 10867 (II) term; or
- 10868 (III) coupon;
- 10869 (B) that is allowed by a seller;
- 10870 (C) taken by a purchaser on a sale; and
- 10871 (D) that is not reimbursed by a third party; or
- 10872 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if
- 10873 separately stated on an invoice, bill of sale, or similar document provided to the
- 10874 purchaser at the time of sale or later, as demonstrated by the books and records the

10875 seller keeps at the time of the transaction in the regular course of business,
10876 including books and records the seller keeps at the time of the transaction in the
10877 regular course of business for nontax purposes, by a preponderance of the facts
10878 and circumstances at the time of the transaction, and by the understanding of all of
10879 the parties to the transaction:

10880 (A) the following from credit extended on the sale of tangible personal property or
10881 services:

10882 (I) a carrying charge;

10883 (II) a financing charge; or

10884 (III) an interest charge;

10885 (B) a delivery charge;

10886 (C) an installation charge;

10887 (D) a manufacturer rebate on a motor vehicle; or

10888 (E) a tax or fee legally imposed directly on the consumer.

10889 (109) "Purchaser" means a person to whom:

10890 (a) a sale of tangible personal property is made;

10891 (b) a product is transferred electronically; or

10892 (c) a service is furnished.

10893 (110) "Qualifying data center" means a data center facility that:

10894 (a) houses a group of networked server computers in one physical location in order to
10895 disseminate, manage, and store data and information;

10896 (b) is located in the state;

10897 (c) is a new operation constructed on or after July 1, 2016;

10898 (d) consists of one or more buildings that total 150,000 or more square feet;

10899 (e) is owned or leased by:

10900 (i) the operator of the data center facility; or

10901 (ii) a person under common ownership, as defined in Section 59-7-101, of the
10902 operator of the data center facility; and

10903 (f) is located on one or more parcels of land that are owned or leased by:

10904 (i) the operator of the data center facility; or

10905 (ii) a person under common ownership, as defined in Section 59-7-101, of the
10906 operator of the data center facility.

10907 (111) "Qualifying energy storage manufacturing facility" means a facility that

10908 manufactures, in the state, equipment or devices that store and discharge energy for the

purpose of providing electrical power.

(112) "Regularly rented" means:

- (a) rented to a guest for value three or more times during a calendar year; or
- (b) advertised or held out to the public as a place that is regularly rented to guests for value.

(113) "Rental" means the same as that term is defined in Subsection (64).

(114)(a) "Repairs or renovations of tangible personal property" means:

- (i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
- (ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:
 - (A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and
 - (B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

- (i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or
- (ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(115) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(116)(a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

- (i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (116)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(117) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(119)(a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(120)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(121) "Sale at retail" means the same as that term is defined in Subsection (118).

(122) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter

10977 is transferred:

10978 (a) by a purchaser-lessee;

10979 (b) to a lessor;

10980 (c) for consideration; and

10981 (d) if:

10982 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial
10983 purchase of the tangible personal property or product transferred electronically;

10984 (ii) the sale of the tangible personal property or product transferred electronically to
10985 the lessor is intended as a form of financing:

10986 (A) for the tangible personal property or product transferred electronically; and

10987 (B) to the purchaser-lessee; and

10988 (iii) in accordance with generally accepted accounting principles, the
10989 purchaser-lessee is required to:

10990 (A) capitalize the tangible personal property or product transferred electronically
10991 for financial reporting purposes; and

10992 (B) account for the lease payments as payments made under a financing
10993 arrangement.

10994 (123) "Sales price" means the same as that term is defined in Subsection (108).

10995 (124)(a) "Sales relating to schools" means the following sales by, amounts paid to, or
10996 amounts charged by a school:

10997 (i) sales that are directly related to the school's educational functions or activities
10998 including:

10999 (A) the sale of:

11000 (I) textbooks;

11001 (II) textbook fees;

11002 (III) laboratory fees;

11003 (IV) laboratory supplies; or

11004 (V) safety equipment;

11005 (B) the sale of a uniform, protective equipment, or sports or recreational
11006 equipment that:

11007 (I) a student is specifically required to wear as a condition of participation in a
11008 school-related event or school-related activity; and

11009 (II) is not readily adaptable to general or continued usage to the extent that it
11010 takes the place of ordinary clothing;

- 11011 (C) sales of the following if the net or gross revenue generated by the sales is
11012 deposited into a school district fund or school fund dedicated to school meals:
11013 (I) food and food ingredients; or
11014 (II) prepared food; or
11015 (D) transportation charges for official school activities; or
11016 (ii) amounts paid to or amounts charged by a school for admission to a school-related
11017 event or school-related activity.
- 11018 (b) "Sales relating to schools" does not include:
11019 (i) bookstore sales of items that are not educational materials or supplies;
11020 (ii) except as provided in Subsection (124)(a)(i)(B):
11021 (A) clothing;
11022 (B) clothing accessories or equipment;
11023 (C) protective equipment; or
11024 (D) sports or recreational equipment; or
11025 (iii) amounts paid to or amounts charged by a school for admission to a
11026 school-related event or school-related activity if the amounts paid or charged are
11027 passed through to a person:
11028 (A) other than a:
11029 (I) school;
11030 (II) nonprofit organization authorized by a school board or a governing body of
11031 a private school to organize and direct a competitive secondary school
11032 activity; or
11033 (III) nonprofit association authorized by a school board or a governing body of
11034 a private school to organize and direct a competitive secondary school
11035 activity; and
11036 (B) that is required to collect sales and use taxes under this chapter.
- 11037 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
11038 commission may make rules defining the term "passed through."
- 11039 (125) For purposes of this section and Section 59-12-104, "school" means:
11040 (a) an elementary school or a secondary school that:
11041 (i) is a:
11042 (A) public school; or
11043 (B) private school; and
11044 (ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(126)(a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(127)(a) "Semiconductor fabricating, processing, research, or development materials"

means tangible personal property or a product transferred electronically if the

tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A)(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A)(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials"

includes:

(i) parts used in the repairs or renovations of tangible personal property or a product

transferred electronically described in Subsection (127)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(128) "Senior citizen center" means a facility having the primary purpose of providing

services to the aged as defined in Section 26B-6-101.

(129) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(130) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(131) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(132)(a) Subject to Subsections (132)(b) and (c), "short-term lodging consumable"

means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

- 11113 (xx) a shower cap;
- 11114 (xxi) a snack item;
- 11115 (xxii) soap;
- 11116 (xxiii) toilet paper;
- 11117 (xxiv) a toothbrush;
- 11118 (xxv) toothpaste; or
- 11119 (xxvi) an item similar to Subsections (132)(b)(i) through (xxv) as the commission
- 11120 may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 11121 Administrative Rulemaking Act.
- 11122 (c) "Short-term lodging consumable" does not include:
- 11123 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 11124 property to be reused; or
- 11125 (ii) a product transferred electronically.
- 11126 (133)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.
- 11127 (b) "Short-term rental" does not include car sharing.
- 11128 (134) "Simplified electronic return" means the electronic return:
- 11129 (a) described in Section 318(C) of the agreement; and
- 11130 (b) approved by the governing board of the agreement.
- 11131 (135) "Solar energy" means the sun used as the sole source of energy for producing
- 11132 electricity.
- 11133 (136)(a) "Sports or recreational equipment" means an item:
- 11134 (i) designed for human use; and
- 11135 (ii) that is:
- 11136 (A) worn in conjunction with:
- 11137 (I) an athletic activity; or
- 11138 (II) a recreational activity; and
- 11139 (B) not suitable for general use.
- 11140 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 11141 commission shall make rules:
- 11142 (i) listing the items that constitute "sports or recreational equipment"; and
- 11143 (ii) that are consistent with the list of items that constitute "sports or recreational
- 11144 equipment" under the agreement.
- 11145 (137) "State" means the state of Utah, its departments, and agencies.
- 11146 (138) "Storage" means any keeping or retention of tangible personal property or any other

11147 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
11148 sale in the regular course of business.

11149 (139)(a) "Tangible personal property" means personal property that:

11150 (i) may be:

11151 (A) seen;

11152 (B) weighed;

11153 (C) measured;

11154 (D) felt; or

11155 (E) touched; or

11156 (ii) is in any manner perceptible to the senses.

11157 (b) "Tangible personal property" includes:

11158 (i) electricity;

11159 (ii) water;

11160 (iii) gas;

11161 (iv) steam; or

11162 (v) prewritten computer software, regardless of the manner in which the prewritten
11163 computer software is transferred.

11164 (c) "Tangible personal property" includes the following regardless of whether the item is
11165 attached to real property:

11166 (i) a dishwasher;

11167 (ii) a dryer;

11168 (iii) a freezer;

11169 (iv) a microwave;

11170 (v) a refrigerator;

11171 (vi) a stove;

11172 (vii) a washer; or

11173 (viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the
11174 commission by rule made in accordance with Title 63G, Chapter 3, Utah
11175 Administrative Rulemaking Act.

11176 (d) "Tangible personal property" does not include a product that is transferred
11177 electronically.

11178 (e) "Tangible personal property" does not include the following if attached to real
11179 property, regardless of whether the attachment to real property is only through a line
11180 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as

determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

- (i) a hot water heater;
- (ii) a water filtration system; or
- (iii) a water softener system.

(140)(a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (140)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

- (i) telecommunications switching or routing equipment, machinery, or software; or
- (ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (140)(a):

- (i) a pole;
- (ii) software;
- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (140)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).

(141) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(142) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

- 11215 (143)(a) "Telecommunications service" means the electronic conveyance, routing, or
11216 transmission of audio, data, video, voice, or any other information or signal to a
11217 point, or among or between points.
- 11218 (b) "Telecommunications service" includes:
- 11219 (i) an electronic conveyance, routing, or transmission with respect to which a
11220 computer processing application is used to act:
- 11221 (A) on the code, form, or protocol of the content;
11222 (B) for the purpose of electronic conveyance, routing, or transmission; and
11223 (C) regardless of whether the service:
- 11224 (I) is referred to as voice over Internet protocol service; or
11225 (II) is classified by the Federal Communications Commission as enhanced or
11226 value added;
- 11227 (ii) an 800 service;
11228 (iii) a 900 service;
11229 (iv) a fixed wireless service;
11230 (v) a mobile wireless service;
11231 (vi) a postpaid calling service;
11232 (vii) a prepaid calling service;
11233 (viii) a prepaid wireless calling service; or
11234 (ix) a private communications service.
- 11235 (c) "Telecommunications service" does not include:
- 11236 (i) advertising, including directory advertising;
11237 (ii) an ancillary service;
11238 (iii) a billing and collection service provided to a third party;
11239 (iv) a data processing and information service if:
- 11240 (A) the data processing and information service allows data to be:
- 11241 (I)(Aa) acquired;
11242 (Bb) generated;
11243 (Cc) processed;
11244 (Dd) retrieved; or
11245 (Ee) stored; and
11246 (II) delivered by an electronic transmission to a purchaser; and
11247 (B) the purchaser's primary purpose for the underlying transaction is the processed
11248 data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(144)(a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (144)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(145)(a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (145)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

- 11283 (ii) data communications;
- 11284 (iii) voice communications; or
- 11285 (iv) telecommunications service.
- 11286 (b) The following apply to Subsection (145)(a):
- 11287 (i) a bridge;
- 11288 (ii) a computer;
- 11289 (iii) a cross connect;
- 11290 (iv) a modem;
- 11291 (v) a multiplexer;
- 11292 (vi) plug in circuitry;
- 11293 (vii) a router;
- 11294 (viii) software;
- 11295 (ix) a switch; or
- 11296 (x) equipment, machinery, or software that functions similarly to an item listed in
- 11297 Subsections (145)(b)(i) through (ix) as determined by the commission by rule
- 11298 made in accordance with Subsection (145)(c).
- 11299 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 11300 commission may by rule define what constitutes equipment, machinery, or software
- 11301 that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).
- 11302 (146)(a) "Telecommunications transmission equipment, machinery, or software" means
- 11303 an item listed in Subsection (146)(b) if that item is purchased or leased primarily for
- 11304 sending, receiving, or transporting:
- 11305 (i) an ancillary service;
- 11306 (ii) data communications;
- 11307 (iii) voice communications; or
- 11308 (iv) telecommunications service.
- 11309 (b) The following apply to Subsection (146)(a):
- 11310 (i) an amplifier;
- 11311 (ii) a cable;
- 11312 (iii) a closure;
- 11313 (iv) a conduit;
- 11314 (v) a controller;
- 11315 (vi) a duplexer;
- 11316 (vii) a filter;

- 11317 (viii) an input device;
- 11318 (ix) an input/output device;
- 11319 (x) an insulator;
- 11320 (xi) microwave machinery or equipment;
- 11321 (xii) an oscillator;
- 11322 (xiii) an output device;
- 11323 (xiv) a pedestal;
- 11324 (xv) a power converter;
- 11325 (xvi) a power supply;
- 11326 (xvii) a radio channel;
- 11327 (xviii) a radio receiver;
- 11328 (xix) a radio transmitter;
- 11329 (xx) a repeater;
- 11330 (xxi) software;
- 11331 (xxii) a terminal;
- 11332 (xxiii) a timing unit;
- 11333 (xxiv) a transformer;
- 11334 (xxv) a wire; or
- 11335 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 11336 Subsections (146)(b)(i) through (xxv) as the commission determines by rule made
- 11337 in accordance with Subsection (146)(c).
- 11338 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 11339 commission may by rule define what constitutes equipment, machinery, or software
- 11340 that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv).
- 11341 (147)(a) "Textbook for a higher education course" means a textbook or other printed
- 11342 material that is required for a course:
- 11343 (i) offered by an institution of higher education; and
- 11344 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 11345 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 11346 (148) "Tobacco" means:
- 11347 (a) a cigarette;
- 11348 (b) a cigar;
- 11349 (c) chewing tobacco;
- 11350 (d) pipe tobacco; or

(e) any other item that contains tobacco.

(149) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(150)(a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(151) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(152)(a) Subject to Subsection (152)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (152)(a); or

(ii)(A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(153) "Vehicle dealer" means a person engaged in the business of buying, selling, or

exchanging a vehicle as defined in Subsection (152).

(154)(a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(155)(a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(156)(a) "Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(157) "Watercraft" means a vessel as defined in Section 73-18-2.

(158) "Wind energy" means wind used as the sole source of energy to produce electricity.

(159) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 133. Section **59-12-102** is amended to read:

59-12-102 (Effective 07/01/26). Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

- 11419 (ii) under the name 855 toll-free calling;
- 11420 (iii) under the name 866 toll-free calling;
- 11421 (iv) under the name 877 toll-free calling;
- 11422 (v) under the name 888 toll-free calling; or
- 11423 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 11424 Federal Communications Commission.

11425 (2)(a) "900 service" means an inbound toll telecommunications service that:

- 11426 (i) a subscriber purchases;
- 11427 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 11428 the subscriber's:
- 11429 (A) prerecorded announcement; or
- 11430 (B) live service; and
- 11431 (iii) is typically marketed:
- 11432 (A) under the name 900 service; or
- 11433 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 11434 Communications Commission.

11435 (b) "900 service" does not include a charge for:

- 11436 (i) a collection service a seller of a telecommunications service provides to a
- 11437 subscriber; or
- 11438 (ii) the following a subscriber sells to the subscriber's customer:
- 11439 (A) a product; or
- 11440 (B) a service.

11441 (3)(a) "Adaptive driving equipment" means mobility enhancing equipment:

- 11442 (i) to be installed in a motor vehicle; and
- 11443 (ii) regardless of who provides the equipment or parts.

11444 (b) "Adaptive driving equipment" includes:

- 11445 (i) a wheelchair or scooter lift;
- 11446 (ii) equipment to secure a wheelchair;
- 11447 (iii) a swivel seat;
- 11448 (iv) a hand or foot control; and
- 11449 (v) a steering aid.

11450 (4)(a) "Admission or user fees" includes season passes.

11451 (b) "Admission or user fees" does not include:

- 11452 (i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(5) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(6) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(7) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (8); and

(b) that are imposed within a local taxing jurisdiction.

(8) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(a)(i)(B);

(c) Subsection 59-12-103(2)(b)(i);

(d) Subsection 59-12-103(2)(c)(i);

(e) Subsection 59-12-103(2)(d);

(f) Subsection 59-12-103(2)(e)(i)(A);

(g) Section 59-12-204;

(h) Section 59-12-401;

(i) Section 59-12-402;

(j) Section 59-12-402.1;

(k) Section 59-12-703;

(l) Section 59-12-802;

(m) Section 59-12-804;

(n) Section 59-12-1102;

(o) Section 59-12-1302;

(p) Section 59-12-1402;

(q) Section 59-12-1802;

(r) Section 59-12-2003;

(s) Section 59-12-2103;

- 11487 (t) Section 59-12-2213;
- 11488 (u) Section 59-12-2214;
- 11489 (v) Section 59-12-2215;
- 11490 (w) Section 59-12-2216;
- 11491 (x) Section 59-12-2217;
- 11492 (y) Section 59-12-2218;
- 11493 (z) Section 59-12-2219; or
- 11494 (aa) Section 59-12-2220.
- 11495 (9) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 11496 (10) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 11497 (a) except for:
- 11498 (i) an airline as defined in Section 59-2-102; or
- 11499 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 11500 includes a corporation that is qualified to do business but is not otherwise doing
- 11501 business in the state, of an airline; and
- 11502 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 11503 whether the business entity performs the following in this state:
- 11504 (i) check, diagnose, overhaul, and repair:
- 11505 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 11506 (B) the parts that comprise an onboard system of a fixed wing turbine powered
- 11507 aircraft;
- 11508 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered
- 11509 aircraft engine;
- 11510 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 11511 aircraft:
- 11512 (A) an inspection;
- 11513 (B) a repair, including a structural repair or modification;
- 11514 (C) changing landing gear; and
- 11515 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 11516 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft
- 11517 and completely apply new paint to the fixed wing turbine powered aircraft; and
- 11518 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 11519 results in a change in the fixed wing turbine powered aircraft's certification
- 11520 requirements by the authority that certifies the fixed wing turbine powered aircraft.

11521 (11) "Alcoholic beverage" means a beverage that:

- 11522 (a) is suitable for human consumption; and
- 11523 (b) contains .5% or more alcohol by volume.

11524 (12) "Alternative energy" means:

- 11525 (a) biomass energy;
- 11526 (b) geothermal energy;
- 11527 (c) hydroelectric energy;
- 11528 (d) solar energy;
- 11529 (e) wind energy; or
- 11530 (f) energy that is derived from:
 - 11531 (i) coal-to-liquids;
 - 11532 (ii) nuclear fuel;
 - 11533 (iii) oil-impregnated diatomaceous earth;
 - 11534 (iv) oil sands;
 - 11535 (v) oil shale;
 - 11536 (vi) petroleum coke; or
 - 11537 (vii) waste heat from:
 - 11538 (A) an industrial facility; or
 - 11539 (B) a power station in which an electric generator is driven through a process in
 - 11540 which water is heated, turns into steam, and spins a steam turbine.

11541 (13)(a) Subject to Subsection (13)(b), "alternative energy electricity production facility"
11542 means a facility that:

- 11543 (i) uses alternative energy to produce electricity; and
- 11544 (ii) has a production capacity of two megawatts or greater.
- 11545 (b) A facility is an alternative energy electricity production facility regardless of whether
- 11546 the facility is:
 - 11547 (i) connected to an electric grid; or
 - 11548 (ii) located on the premises of an electricity consumer.

11549 (14)(a) "Ancillary service" means a service associated with, or incidental to, the
11550 provision of telecommunications service.

- 11551 (b) "Ancillary service" includes:
 - 11552 (i) a conference bridging service;
 - 11553 (ii) a detailed communications billing service;
 - 11554 (iii) directory assistance;

11555 (iv) a vertical service; or

11556 (v) a voice mail service.

11557 (15) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

11558 (16) "Assisted amusement device" means an amusement device, skill device, or ride device
11559 that is started and stopped by an individual:

11560 (a) who is not the purchaser or renter of the right to use or operate the amusement
11561 device, skill device, or ride device; and

11562 (b) at the direction of the seller of the right to use the amusement device, skill device, or
11563 ride device.

11564 (17) "Assisted cleaning or washing of tangible personal property" means cleaning or
11565 washing of tangible personal property if the cleaning or washing labor is primarily
11566 performed by an individual:

11567 (a) who is not the purchaser of the cleaning or washing of the tangible personal property;
11568 and

11569 (b) at the direction of the seller of the cleaning or washing of the tangible personal
11570 property.

11571 (18) "Authorized carrier" means:

11572 (a) in the case of vehicles operated over public highways, the holder of credentials
11573 indicating that the vehicle is or will be operated pursuant to both the International
11574 Registration Plan and the International Fuel Tax Agreement;

11575 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
11576 certificate or air carrier's operating certificate; or

11577 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
11578 stock, a person who uses locomotives, freight cars, railroad work equipment, or other
11579 rolling stock in more than one state.

11580 (19)(a) "Biomass energy" means any of the following that is used as the primary source
11581 of energy to produce fuel or electricity:

11582 (i) material from a plant or tree; or

11583 (ii) other organic matter that is available on a renewable basis, including:

11584 (A) slash and brush from forests and woodlands;

11585 (B) animal waste;

11586 (C) waste vegetable oil;

11587 (D) methane or synthetic gas produced at a landfill, as a byproduct of the

11588 treatment of wastewater residuals, or through the conversion of a waste

- 11589 material through a nonincineration, thermal conversion process;
- 11590 (E) aquatic plants; and
- 11591 (F) agricultural products.
- 11592 (b) "Biomass energy" does not include:
- 11593 (i) black liquor; or
- 11594 (ii) treated woods.
- 11595 (20)(a) "Bundled transaction" means the sale of two or more items of tangible personal
- 11596 property, products, or services if the tangible personal property, products, or services
- 11597 are:
- 11598 (i) distinct and identifiable; and
- 11599 (ii) sold for one nonitemized price.
- 11600 (b) "Bundled transaction" does not include:
- 11601 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 11602 the basis of the selection by the purchaser of the items of tangible personal
- 11603 property included in the transaction;
- 11604 (ii) the sale of real property;
- 11605 (iii) the sale of services to real property;
- 11606 (iv) the retail sale of tangible personal property and a service if:
- 11607 (A) the tangible personal property:
- 11608 (I) is essential to the use of the service; and
- 11609 (II) is provided exclusively in connection with the service; and
- 11610 (B) the service is the true object of the transaction;
- 11611 (v) the retail sale of two services if:
- 11612 (A) one service is provided that is essential to the use or receipt of a second
- 11613 service;
- 11614 (B) the first service is provided exclusively in connection with the second service;
- 11615 and
- 11616 (C) the second service is the true object of the transaction;
- 11617 (vi) a transaction that includes tangible personal property or a product subject to
- 11618 taxation under this chapter and tangible personal property or a product that is not
- 11619 subject to taxation under this chapter if the:
- 11620 (A) seller's purchase price of the tangible personal property or product subject to
- 11621 taxation under this chapter is de minimis; or
- 11622 (B) seller's sales price of the tangible personal property or product subject to

- 11623 taxation under this chapter is de minimis; and
- 11624 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 11625 this chapter and tangible personal property that is subject to taxation under this
- 11626 chapter if:
- 11627 (A) that retail sale includes:
- 11628 (I) food and food ingredients;
- 11629 (II) a drug;
- 11630 (III) durable medical equipment;
- 11631 (IV) mobility enhancing equipment;
- 11632 (V) an over-the-counter drug;
- 11633 (VI) a prosthetic device; or
- 11634 (VII) a medical supply; and
- 11635 (B) subject to Subsection (20)(f):
- 11636 (I) the seller's purchase price of the tangible personal property subject to
- 11637 taxation under this chapter is 50% or less of the seller's total purchase price
- 11638 of that retail sale; or
- 11639 (II) the seller's sales price of the tangible personal property subject to taxation
- 11640 under this chapter is 50% or less of the seller's total sales price of that retail
- 11641 sale.
- 11642 (c)(i) For purposes of Subsection (20)(a)(i), tangible personal property, a product, or
- 11643 a service that is distinct and identifiable does not include:
- 11644 (A) packaging that:
- 11645 (I) accompanies the sale of the tangible personal property, product, or service;
- 11646 and
- 11647 (II) is incidental or immaterial to the sale of the tangible personal property,
- 11648 product, or service;
- 11649 (B) tangible personal property, a product, or a service provided free of charge with
- 11650 the purchase of another item of tangible personal property, a product, or a
- 11651 service; or
- 11652 (C) an item of tangible personal property, a product, or a service included in the
- 11653 definition of "purchase price."
- 11654 (ii) For purposes of Subsection (20)(c)(i)(B), an item of tangible personal property, a
- 11655 product, or a service is provided free of charge with the purchase of another item
- 11656 of tangible personal property, a product, or a service if the sales price of the

- 11657 purchased item of tangible personal property, product, or service does not vary
11658 depending on the inclusion of the tangible personal property, product, or service
11659 provided free of charge.
- 11660 (d)(i) For purposes of Subsection (20)(a)(ii), property sold for one nonitemized price
11661 does not include a price that is separately identified by tangible personal property,
11662 product, or service on the following, regardless of whether the following is in
11663 paper format or electronic format:
- 11664 (A) a binding sales document; or
 - 11665 (B) another supporting sales-related document that is available to a purchaser.
- 11666 (ii) For purposes of Subsection (20)(d)(i), a binding sales document or another
11667 supporting sales-related document that is available to a purchaser includes:
- 11668 (A) a bill of sale;
 - 11669 (B) a contract;
 - 11670 (C) an invoice;
 - 11671 (D) a lease agreement;
 - 11672 (E) a periodic notice of rates and services;
 - 11673 (F) a price list;
 - 11674 (G) a rate card;
 - 11675 (H) a receipt; or
 - 11676 (I) a service agreement.
- 11677 (e)(i) For purposes of Subsection (20)(b)(vi), the sales price of tangible personal
11678 property or a product subject to taxation under this chapter is de minimis if:
- 11679 (A) the seller's purchase price of the tangible personal property or product is 10%
11680 or less of the seller's total purchase price of the bundled transaction; or
 - 11681 (B) the seller's sales price of the tangible personal property or product is 10% or
11682 less of the seller's total sales price of the bundled transaction.
- 11683 (ii) For purposes of Subsection (20)(b)(vi), a seller:
- 11684 (A) shall use the seller's purchase price or the seller's sales price to determine if
11685 the purchase price or sales price of the tangible personal property or product
11686 subject to taxation under this chapter is de minimis; and
 - 11687 (B) may not use a combination of the seller's purchase price and the seller's sales
11688 price to determine if the purchase price or sales price of the tangible personal
11689 property or product subject to taxation under this chapter is de minimis.
- 11690 (iii) For purposes of Subsection (20)(b)(vi), a seller shall use the full term of a service

- 11691 contract to determine if the sales price of tangible personal property or a product is
11692 de minimis.
- 11693 (f) For purposes of Subsection (20)(b)(vii)(B), a seller may not use a combination of the
11694 seller's purchase price and the seller's sales price to determine if tangible personal
11695 property subject to taxation under this chapter is 50% or less of the seller's total
11696 purchase price or sales price of that retail sale.
- 11697 (21) "Car sharing" means the same as that term is defined in Section 13-48a-101.
- 11698 (22) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.
- 11699 (23) "Certified automated system" means software certified by the governing board of the
11700 agreement that:
- 11701 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
11702 (i) on a transaction; and
11703 (ii) in the states that are members of the agreement;
- 11704 (b) determines the amount of agreement sales and use tax to remit to a state that is a
11705 member of the agreement; and
- 11706 (c) maintains a record of the transaction described in Subsection (23)(a)(i).
- 11707 (24) "Certified service provider" means an agent certified:
11708 (a) by the governing board of the agreement; and
11709 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as
11710 outlined in the contract between the governing board of the agreement and the
11711 certified service provider, other than the seller's obligation under Section 59-12-124
11712 to remit a tax on the seller's own purchases.
- 11713 (25)(a) Subject to Subsection (25)(b), "clothing" means all human wearing apparel
11714 suitable for general use.
- 11715 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
11716 commission shall make rules:
11717 (i) listing the items that constitute "clothing"; and
11718 (ii) that are consistent with the list of items that constitute "clothing" under the
11719 agreement.
- 11720 (26) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- 11721 (27) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
11722 that does not constitute industrial use under Subsection (61) or residential use under
11723 Subsection (117).
- 11724 (28)(a) "Common carrier" means a person engaged in or transacting the business of

11725 transporting passengers, freight, merchandise, or other property for hire within this
11726 state.

11727 (b)(i) "Common carrier" does not include a person that, at the time the person is
11728 traveling to or from that person's place of employment, transports a passenger to
11729 or from the passenger's place of employment.

11730 (ii) For purposes of Subsection (28)(b)(i), in accordance with Title 63G, Chapter 3,
11731 Utah Administrative Rulemaking Act, the commission may make rules defining
11732 what constitutes a person's place of employment.

11733 (c) "Common carrier" does not include a person that provides transportation network
11734 services, as defined in Section 13-51-102.

11735 (29) "Component part" includes:

11736 (a) poultry, dairy, and other livestock feed, and their components;

11737 (b) baling ties and twine used in the baling of hay and straw;

11738 (c) fuel used for providing temperature control of orchards and commercial greenhouses
11739 doing a majority of their business in wholesale sales, and for providing power for
11740 off-highway type farm machinery; and

11741 (d) feed, seeds, and seedlings.

11742 (30) "Computer" means an electronic device that accepts information:

11743 (a)(i) in digital form; or

11744 (ii) in a form similar to digital form; and

11745 (b) manipulates that information for a result based on a sequence of instructions.

11746 (31) "Computer software" means a set of coded instructions designed to cause:

11747 (a) a computer to perform a task; or

11748 (b) automatic data processing equipment to perform a task.

11749 (32) "Computer software maintenance contract" means a contract that obligates a seller of
11750 computer software to provide a customer with:

11751 (a) future updates or upgrades to computer software;

11752 (b) support services with respect to computer software; or

11753 (c) a combination of Subsections (32)(a) and (b).

11754 (33)(a) "Conference bridging service" means an ancillary service that links two or more
11755 participants of an audio conference call or video conference call.

11756 (b) "Conference bridging service" may include providing a telephone number as part of
11757 the ancillary service described in Subsection (33)(a).

11758 (c) "Conference bridging service" does not include a telecommunications service used to

reach the ancillary service described in Subsection (33)(a).

(34) "Construction materials" means any tangible personal property that will be converted into real property.

(35) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(36)(a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (36)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(37) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(38) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (38)(b)(i) through (v);

(c)(i) except as provided in Subsection (38)(c)(ii), is intended for ingestion in:

- 11793 (A) tablet form;
11794 (B) capsule form;
11795 (C) powder form;
11796 (D) softgel form;
11797 (E) gelcap form; or
11798 (F) liquid form; or
11799 (ii) if the product is not intended for ingestion in a form described in Subsections
11800 (38)(c)(i)(A) through (F), is not represented:
11801 (A) as conventional food; and
11802 (B) for use as a sole item of:
11803 (I) a meal; or
11804 (II) the diet; and
11805 (d) is required to be labeled as a dietary supplement:
11806 (i) identifiable by the "Supplemental Facts" box found on the label; and
11807 (ii) as required by 21 C.F.R. Sec. 101.36.
11808 (39)(a) "Digital audio work" means a work that results from the fixation of a series of
11809 musical, spoken, or other sounds.
11810 (b) "Digital audio work" includes a ringtone.
11811 (40) "Digital audio-visual work" means a series of related images which, when shown in
11812 succession, imparts an impression of motion, together with accompanying sounds, if any.
11813 (41) "Digital book" means a work that is generally recognized in the ordinary and usual
11814 sense as a book.
11815 (42)(a) "Direct mail" means printed material delivered or distributed by United States
11816 mail or other delivery service:
11817 (i) to:
11818 (A) a mass audience; or
11819 (B) addressees on a mailing list provided:
11820 (I) by a purchaser of the mailing list; or
11821 (II) at the discretion of the purchaser of the mailing list; and
11822 (ii) if the cost of the printed material is not billed directly to the recipients.
11823 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
11824 purchaser to a seller of direct mail for inclusion in a package containing the printed
11825 material.
11826 (c) "Direct mail" does not include multiple items of printed material delivered to a single

11827 address.

11828 (43) "Directory assistance" means an ancillary service of providing:

11829 (a) address information; or

11830 (b) telephone number information.

11831 (44)(a) "Disposable home medical equipment or supplies" means medical equipment or
11832 supplies that:

11833 (i) cannot withstand repeated use; and

11834 (ii) are purchased by, for, or on behalf of a person other than:

11835 (A) a health care facility as defined in Section 26B-2-201;

11836 (B) a health care provider as defined in Section 78B-3-403;

11837 (C) an office of a health care provider described in Subsection (44)(a)(ii)(B); or

11838 (D) a person similar to a person described in Subsections (44)(a)(ii)(A) through

11839 (C).

11840 (b) "Disposable home medical equipment or supplies" does not include:

11841 (i) a drug;

11842 (ii) durable medical equipment;

11843 (iii) a hearing aid;

11844 (iv) a hearing aid accessory;

11845 (v) mobility enhancing equipment; or

11846 (vi) tangible personal property used to correct impaired vision, including:

11847 (A) eyeglasses; or

11848 (B) contact lenses.

11849 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
11850 commission may by rule define what constitutes medical equipment or supplies.

11851 (45) "Drilling equipment manufacturer" means a facility:

11852 (a) located in the state;

11853 (b) with respect to which 51% or more of the manufacturing activities of the facility
11854 consist of manufacturing component parts of drilling equipment;

11855 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
11856 manufacturing process; and

11857 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
11858 manufacturing process.

11859 (46)(a) "Drug" means a compound, substance, or preparation, or a component of a
11860 compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (46)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(47)(a) "Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (47)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(48) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

- (v) optical capabilities;
- (vi) electromagnetic capabilities; or
- (vii) capabilities similar to Subsections (48)(b)(i) through (vi).

(49) "Electronic financial payment service" means an establishment:

- (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

- (b) that performs electronic financial payment services.

(50) "Employee" means the same as that term is defined in Section 59-10-401.

(51) "Fixed guideway" means a public transit facility that uses and occupies:

- (a) rail for the use of public transit; or
- (b) a separate right-of-way for the use of public transit.

(52) "Fixed wing turbine powered aircraft" means an aircraft that:

- (a) is powered by turbine engines;
- (b) operates on jet fuel; and
- (c) has wings that are permanently attached to the fuselage of the aircraft.

(53) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(54)(a) "Food and food ingredients" means substances:

- (i) regardless of whether the substances are in:

- (A) liquid form;
- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and

- (ii) that are:

- (A) sold for:
 - (I) ingestion by humans; or
 - (II) chewing by humans; and
- (B) consumed for the substance's:
 - (I) taste; or
 - (II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (100)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(55)(a) "Fundraising sales" means sales:

(i)(A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (55)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenue from which is deposited in a dedicated account controlled by the school or school district.

(56) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(57) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(58)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and

- 11963 General Counsel, the Office of the Legislative Auditor General, and the Office of
11964 the Legislative Fiscal Analyst;
- 11965 (iv) the National Guard;
- 11966 (v) an independent entity as defined in Section 63E-1-102; or
- 11967 (vi) a political subdivision as defined in Section 17B-1-102.
- 11968 (b) "Governmental entity" does not include the state systems of public and higher
11969 education, including:
- 11970 (i) a school;
- 11971 (ii) the State Board of Education;
- 11972 (iii) the Utah Board of Higher Education; or
- 11973 (iv) an institution of higher education [~~described~~] listed in Section [~~53B-1-102~~]
11974 53H-1-102.
- 11975 (59) "Hydroelectric energy" means water used as the sole source of energy to produce
11976 electricity.
- 11977 (60) "Individual-owned shared vehicle" means the same as that term is defined in Section
11978 13-48a-101.
- 11979 (61) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
11980 fuels:
- 11981 (a) in mining or extraction of minerals;
- 11982 (b) in agricultural operations to produce an agricultural product up to the time of harvest
11983 or placing the agricultural product into a storage facility, including:
- 11984 (i) commercial greenhouses;
- 11985 (ii) irrigation pumps;
- 11986 (iii) farm machinery;
- 11987 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
11988 under Title 41, Chapter 1a, Part 2, Registration; and
- 11989 (v) other farming activities;
- 11990 (c) in manufacturing tangible personal property at an establishment described in:
- 11991 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
11992 the federal Executive Office of the President, Office of Management and Budget;
11993 or
- 11994 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
11995 American Industry Classification System of the federal Executive Office of the
11996 President, Office of Management and Budget;

- 11997 (d) by a scrap recycler if:
- 11998 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
- 11999 process one or more of the following items into prepared grades of processed
- 12000 materials for use in new products:
- 12001 (A) iron;
- 12002 (B) steel;
- 12003 (C) nonferrous metal;
- 12004 (D) paper;
- 12005 (E) glass;
- 12006 (F) plastic;
- 12007 (G) textile; or
- 12008 (H) rubber; and
- 12009 (ii) the new products under Subsection (61)(d)(i) would otherwise be made with
- 12010 nonrecycled materials; or
- 12011 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
- 12012 cogeneration facility as defined in Section 54-2-1.
- 12013 (62)(a) "Installation charge" means a charge for installing:
- 12014 (i) tangible personal property; or
- 12015 (ii) a product transferred electronically.
- 12016 (b) "Installation charge" does not include a charge for:
- 12017 (i) repairs or renovations of:
- 12018 (A) tangible personal property; or
- 12019 (B) a product transferred electronically; or
- 12020 (ii) attaching tangible personal property or a product transferred electronically:
- 12021 (A) to other tangible personal property; and
- 12022 (B) as part of a manufacturing or fabrication process.
- 12023 (63) "Institution of higher education" means an institution of higher education listed in
- 12024 Section ~~[53B-2-101]~~ 53H-1-102.
- 12025 (64)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal
- 12026 property or a product transferred electronically for:
- 12027 (i)(A) a fixed term; or
- 12028 (B) an indeterminate term; and
- 12029 (ii) consideration.
- 12030 (b) "Lease" or "rental" includes:

- 12031 (i) an agreement covering a motor vehicle and trailer if the amount of consideration
12032 may be increased or decreased by reference to the amount realized upon sale or
12033 disposition of the property as defined in Section 7701(h)(1), Internal Revenue
12034 Code; and
12035 (ii) car sharing.
- 12036 (c) "Lease" or "rental" does not include:
12037 (i) a transfer of possession or control of property under a security agreement or
12038 deferred payment plan that requires the transfer of title upon completion of the
12039 required payments;
12040 (ii) a transfer of possession or control of property under an agreement that requires
12041 the transfer of title:
12042 (A) upon completion of required payments; and
12043 (B) if the payment of an option price does not exceed the greater of:
12044 (I) \$100; or
12045 (II) 1% of the total required payments; or
12046 (iii) providing tangible personal property along with an operator for a fixed period of
12047 time or an indeterminate period of time if the operator is necessary for equipment
12048 to perform as designed.
- 12049 (d) For purposes of Subsection (64)(c)(iii), an operator is necessary for equipment to
12050 perform as designed if the operator's duties exceed the:
12051 (i) set-up of tangible personal property;
12052 (ii) maintenance of tangible personal property; or
12053 (iii) inspection of tangible personal property.
- 12054 (65) "Lesson" means a fixed period of time for the duration of which a trained instructor:
12055 (a) is present with a student in person or by video; and
12056 (b) actively instructs the student, including by providing observation or feedback.
- 12057 (66) "Life science establishment" means an establishment in this state that is classified
12058 under the following NAICS codes of the 2007 North American Industry Classification
12059 System of the federal Executive Office of the President, Office of Management and
12060 Budget:
12061 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
12062 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
12063 Manufacturing; or
12064 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

- 12065 (67) "Life science research and development facility" means a facility owned, leased, or
12066 rented by a life science establishment if research and development is performed in 51%
12067 or more of the total area of the facility.
- 12068 (68) "Load and leave" means delivery to a purchaser by use of a tangible storage media if
12069 the tangible storage media is not physically transferred to the purchaser.
- 12070 (69) "Local taxing jurisdiction" means a:
- 12071 (a) county that is authorized to impose an agreement sales and use tax;
12072 (b) city that is authorized to impose an agreement sales and use tax; or
12073 (c) town that is authorized to impose an agreement sales and use tax.
- 12074 (70) "Manufactured home" means the same as that term is defined in Section 15A-1-302.
- 12075 (71) "Manufacturing facility" means:
- 12076 (a) an establishment described in:
- 12077 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
12078 the federal Executive Office of the President, Office of Management and Budget;
12079 or
- 12080 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
12081 American Industry Classification System of the federal Executive Office of the
12082 President, Office of Management and Budget;
- 12083 (b) a scrap recycler if:
- 12084 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to
12085 process one or more of the following items into prepared grades of processed
12086 materials for use in new products:
- 12087 (A) iron;
12088 (B) steel;
12089 (C) nonferrous metal;
12090 (D) paper;
12091 (E) glass;
12092 (F) plastic;
12093 (G) textile; or
12094 (H) rubber; and
- 12095 (ii) the new products under Subsection (71)(b)(i) would otherwise be made with
12096 nonrecycled materials; or
- 12097 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
12098 placed in service on or after May 1, 2006.

(72)(a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(73)(a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (73)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

- 12133 (H) provides or offers customer service to a marketplace seller or a marketplace
12134 seller's purchaser or accepts or assists with taking orders, returns, or exchanges
12135 of tangible personal property, a product transferred electronically, or a service
12136 sold by a marketplace seller on the person's marketplace; or
12137 (I) brands or otherwise identifies sales as those of the person; and
12138 (ii) does any of the following:
12139 (A) collects the sales price or purchase price of a retail sale of tangible personal
12140 property, a product transferred electronically, or a service;
12141 (B) provides payment processing services for a retail sale of tangible personal
12142 property, a product transferred electronically, or a service;
12143 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee,
12144 closing fee, a fee for inserting or making available tangible personal property, a
12145 product transferred electronically, or a service on the person's marketplace, or
12146 other consideration for the facilitation of a retail sale of tangible personal
12147 property, a product transferred electronically, or a service, regardless of
12148 ownership or control of the tangible personal property, the product transferred
12149 electronically, or the service that is the subject of the retail sale;
12150 (D) through terms and conditions, an agreement, or another arrangement with a
12151 third person, collects payment from a purchase for a retail sale of tangible
12152 personal property, a product transferred electronically, or a service and
12153 transmits that payment to the marketplace seller, regardless of whether the
12154 third person receives compensation or other consideration in exchange for the
12155 service; or
12156 (E) provides a virtual currency for a purchaser to use to purchase tangible personal
12157 property, a product transferred electronically, or service offered for sale.
12158 (b) "Marketplace facilitator" does not include:
12159 (i) a person that only provides payment processing services; or
12160 (ii) a person described in Subsection (73)(a) to the extent the person is facilitating a
12161 sale for a seller that is a restaurant as defined in Section 59-12-602.
12162 (74) "Marketplace seller" means a seller that makes one or more retail sales through a
12163 marketplace that a marketplace facilitator owns, operates, or controls, regardless of
12164 whether the seller is required to be registered to collect and remit the tax under this part.
12165 (75) "Member of the immediate family of the producer" means a person who is related to a
12166 producer described in Subsection 59-12-104(20)(a) as a:

- 12167 (a) child or stepchild, regardless of whether the child or stepchild is:
12168 (i) an adopted child or adopted stepchild; or
12169 (ii) a foster child or foster stepchild;
12170 (b) grandchild or stepgrandchild;
12171 (c) grandparent or stepgrandparent;
12172 (d) nephew or stepnephew;
12173 (e) niece or stepniece;
12174 (f) parent or stepparent;
12175 (g) sibling or stepsibling;
12176 (h) spouse;
12177 (i) person who is the spouse of a person described in Subsections (75)(a) through (g); or
12178 (j) person similar to a person described in Subsections (75)(a) through (i) as determined
12179 by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
12180 Administrative Rulemaking Act.

12181 (76) "Mobile home" means the same as that term is defined in Section 15A-1-302.

12182 (77) "Mobile telecommunications service" means the same as that term is defined in the
12183 Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

12184 (78)(a) "Mobile wireless service" means a telecommunications service, regardless of the
12185 technology used, if:

- 12186 (i) the origination point of the conveyance, routing, or transmission is not fixed;
12187 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
12188 (iii) the origination point described in Subsection (78)(a)(i) and the termination point
12189 described in Subsection (78)(a)(ii) are not fixed.

12190 (b) "Mobile wireless service" includes a telecommunications service that is provided by
12191 a commercial mobile radio service provider.

12192 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
12193 commission may by rule define "commercial mobile radio service provider."

12194 (79)(a) "Mobility enhancing equipment" means equipment that is:

- 12195 (i) primarily and customarily used to provide or increase the ability to move from one
12196 place to another;
12197 (ii) appropriate for use in a:
12198 (A) home; or
12199 (B) motor vehicle; and
12200 (iii) not generally used by persons with normal mobility.

- 12201 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
12202 the equipment described in Subsection (79)(a).
- 12203 (c) "Mobility enhancing equipment" does not include:
12204 (i) a motor vehicle;
12205 (ii) equipment on a motor vehicle if that equipment is normally provided by the
12206 motor vehicle manufacturer;
12207 (iii) durable medical equipment; or
12208 (iv) a prosthetic device.
- 12209 (80) "Model 1 seller" means a seller registered under the agreement that has selected a
12210 certified service provider as the seller's agent to perform the seller's sales and use tax
12211 functions for agreement sales and use taxes, as outlined in the contract between the
12212 governing board of the agreement and the certified service provider, other than the
12213 seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
- 12214 (81) "Model 2 seller" means a seller registered under the agreement that:
12215 (a) except as provided in Subsection (81)(b), has selected a certified automated system
12216 to perform the seller's sales tax functions for agreement sales and use taxes; and
12217 (b) retains responsibility for remitting all of the sales tax:
12218 (i) collected by the seller; and
12219 (ii) to the appropriate local taxing jurisdiction.
- 12220 (82)(a) Subject to Subsection (82)(b), "model 3 seller" means a seller registered under
12221 the agreement that has:
12222 (i) sales in at least five states that are members of the agreement;
12223 (ii) total annual sales revenue of at least \$500,000,000;
12224 (iii) a proprietary system that calculates the amount of tax:
12225 (A) for an agreement sales and use tax; and
12226 (B) due to each local taxing jurisdiction; and
12227 (iv) entered into a performance agreement with the governing board of the agreement.
- 12228 (b) For purposes of Subsection (82)(a), "model 3 seller" includes an affiliated group of
12229 sellers using the same proprietary system.
- 12230 (83) "Model 4 seller" means a seller that is registered under the agreement and is not a
12231 model 1 seller, model 2 seller, or model 3 seller.
- 12232 (84) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 12233 (85) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.
- 12234 (86) "Oil sands" means impregnated bituminous sands that:

- 12235 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
12236 other hydrocarbons, or otherwise treated;
12237 (b) yield mixtures of liquid hydrocarbon; and
12238 (c) require further processing other than mechanical blending before becoming finished
12239 petroleum products.

12240 (87) "Oil shale" means a group of fine black to dark brown shales containing kerogen
12241 material that yields petroleum upon heating and distillation.

12242 (88) "Optional computer software maintenance contract" means a computer software
12243 maintenance contract that a customer is not obligated to purchase as a condition to the
12244 retail sale of computer software.

12245 (89)(a) "Other fuels" means products that burn independently to produce heat or energy.

12246 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
12247 personal property.

12248 (90)(a) "Paging service" means a telecommunications service that provides transmission
12249 of a coded radio signal for the purpose of activating a specific pager.

12250 (b) For purposes of Subsection (90)(a), the transmission of a coded radio signal includes
12251 a transmission by message or sound.

12252 (91) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

12253 (92) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

12254 (93)(a) "Permanently attached to real property" means that for tangible personal property
12255 attached to real property:

12256 (i) the attachment of the tangible personal property to the real property:

12257 (A) is essential to the use of the tangible personal property; and

12258 (B) suggests that the tangible personal property will remain attached to the real
12259 property in the same place over the useful life of the tangible personal
12260 property; or

12261 (ii) if the tangible personal property is detached from the real property, the
12262 detachment would:

12263 (A) cause substantial damage to the tangible personal property; or

12264 (B) require substantial alteration or repair of the real property to which the
12265 tangible personal property is attached.

12266 (b) "Permanently attached to real property" includes:

12267 (i) the attachment of an accessory to the tangible personal property if the accessory is:

12268 (A) essential to the operation of the tangible personal property; and

- 12269 (B) attached only to facilitate the operation of the tangible personal property;
12270 (ii) a temporary detachment of tangible personal property from real property for a
12271 repair or renovation if the repair or renovation is performed where the tangible
12272 personal property and real property are located; or
12273 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
12274 Subsection (93)(c)(iii) or (iv).
- 12275 (c) "Permanently attached to real property" does not include:
12276 (i) the attachment of portable or movable tangible personal property to real property
12277 if that portable or movable tangible personal property is attached to real property
12278 only for:
12279 (A) convenience;
12280 (B) stability; or
12281 (C) for an obvious temporary purpose;
12282 (ii) the detachment of tangible personal property from real property except for the
12283 detachment described in Subsection (93)(b)(ii);
12284 (iii) an attachment of the following tangible personal property to real property if the
12285 attachment to real property is only through a line that supplies water, electricity,
12286 gas, telecommunications, cable, or supplies a similar item as determined by the
12287 commission by rule made in accordance with Title 63G, Chapter 3, Utah
12288 Administrative Rulemaking Act:
12289 (A) a computer;
12290 (B) a telephone;
12291 (C) a television; or
12292 (D) tangible personal property similar to Subsections (93)(c)(iii)(A) through (C)
12293 as determined by the commission by rule made in accordance with Title 63G,
12294 Chapter 3, Utah Administrative Rulemaking Act; or
12295 (iv) an item listed in Subsection (139)(c).
- 12296 (94) "Person" includes any individual, firm, partnership, joint venture, association,
12297 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
12298 municipality, district, or other local governmental entity of the state, or any group or
12299 combination acting as a unit.
- 12300 (95) "Place of primary use":
12301 (a) for telecommunications service other than mobile telecommunications service,
12302 means the street address representative of where the customer's use of the

telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(96)(a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(97) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(98) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99) "Prepaid wireless calling service" means a telecommunications service:

- 12337 (a) that provides the right to utilize:
- 12338 (i) mobile wireless service; and
- 12339 (ii) other service that is not a telecommunications service, including:
- 12340 (A) the download of a product transferred electronically;
- 12341 (B) a content service; or
- 12342 (C) an ancillary service;
- 12343 (b) that:
- 12344 (i) is paid for in advance; and
- 12345 (ii) enables the origination of a call using an:
- 12346 (A) access number; or
- 12347 (B) authorization code;
- 12348 (c) that is dialed:
- 12349 (i) manually; or
- 12350 (ii) electronically; and
- 12351 (d) sold in predetermined units or dollars that decline:
- 12352 (i) by a known amount; and
- 12353 (ii) with use.
- 12354 (100)(a) "Prepared food" means:
- 12355 (i) food:
- 12356 (A) sold in a heated state; or
- 12357 (B) heated by a seller;
- 12358 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 12359 item; or
- 12360 (iii) except as provided in Subsection (100)(c), food sold with an eating utensil
- 12361 provided by the seller, including a:
- 12362 (A) plate;
- 12363 (B) knife;
- 12364 (C) fork;
- 12365 (D) spoon;
- 12366 (E) glass;
- 12367 (F) cup;
- 12368 (G) napkin; or
- 12369 (H) straw.
- 12370 (b) "Prepared food" does not include:

- 12371 (i) food that a seller only:
- 12372 (A) cuts;
- 12373 (B) repackages; or
- 12374 (C) pasteurizes;
- 12375 (ii)(A) the following:
- 12376 (I) raw egg;
- 12377 (II) raw fish;
- 12378 (III) raw meat;
- 12379 (IV) raw poultry; or
- 12380 (V) a food containing an item described in Subsections (100)(b)(ii)(A)(I)
- 12381 through (IV); and
- 12382 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of
- 12383 the Food and Drug Administration's Food Code that a consumer cook the items
- 12384 described in Subsection (100)(b)(ii)(A) to prevent food borne illness; or
- 12385 (iii) the following if sold without eating utensils provided by the seller:
- 12386 (A) food and food ingredients sold by a seller if the seller's proper primary
- 12387 classification under the 2002 North American Industry Classification System
- 12388 of the federal Executive Office of the President, Office of Management and
- 12389 Budget, is manufacturing in Sector 311, Food Manufacturing, except for
- 12390 Subsector 3118, Bakeries and Tortilla Manufacturing;
- 12391 (B) food and food ingredients sold in an unheated state:
- 12392 (I) by weight or volume; and
- 12393 (II) as a single item; or
- 12394 (C) a bakery item, including:
- 12395 (I) a bagel;
- 12396 (II) a bar;
- 12397 (III) a biscuit;
- 12398 (IV) bread;
- 12399 (V) a bun;
- 12400 (VI) a cake;
- 12401 (VII) a cookie;
- 12402 (VIII) a croissant;
- 12403 (IX) a danish;
- 12404 (X) a donut;

- 12405 (XI) a muffin;
- 12406 (XII) a pastry;
- 12407 (XIII) a pie;
- 12408 (XIV) a roll;
- 12409 (XV) a tart;
- 12410 (XVI) a torte; or
- 12411 (XVII) a tortilla.

12412 (c) An eating utensil provided by the seller does not include the following used to
12413 transport the food:

- 12414 (i) a container; or
- 12415 (ii) packaging.

12416 (101) "Prescription" means an order, formula, or recipe that is issued:

- 12417 (a)(i) orally;
- 12418 (ii) in writing;
- 12419 (iii) electronically; or
- 12420 (iv) by any other manner of transmission; and

12421 (b) by a licensed practitioner authorized by the laws of a state.

12422 (102)(a) "Prewritten computer software" means computer software that is not designed
12423 and developed:

- 12424 (i) by the author or other creator of the computer software; and
- 12425 (ii) to the specifications of a specific purchaser.

12426 (b) "Prewritten computer software" includes:

- 12427 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
12428 computer software is not designed and developed:

- 12429 (A) by the author or other creator of the computer software; and
- 12430 (B) to the specifications of a specific purchaser;

- 12431 (ii) computer software designed and developed by the author or other creator of the
12432 computer software to the specifications of a specific purchaser if the computer
12433 software is sold to a person other than the purchaser; or

- 12434 (iii) except as provided in Subsection (102)(c), prewritten computer software or a
12435 prewritten portion of prewritten computer software:

- 12436 (A) that is modified or enhanced to any degree; and
- 12437 (B) if the modification or enhancement described in Subsection (102)(b)(iii)(A) is
12438 designed and developed to the specifications of a specific purchaser.

- 12439 (c) "Prewritten computer software" does not include a modification or enhancement
12440 described in Subsection (102)(b)(iii) if the charges for the modification or
12441 enhancement are:
12442 (i) reasonable; and
12443 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the
12444 invoice or other statement of price provided to the purchaser at the time of sale or
12445 later, as demonstrated by:
12446 (A) the books and records the seller keeps at the time of the transaction in the
12447 regular course of business, including books and records the seller keeps at the
12448 time of the transaction in the regular course of business for nontax purposes;
12449 (B) a preponderance of the facts and circumstances at the time of the transaction;
12450 and
12451 (C) the understanding of all of the parties to the transaction.

- 12452 (103)(a) "Private communications service" means a telecommunications service:
12453 (i) that entitles a customer to exclusive or priority use of one or more
12454 communications channels between or among termination points; and
12455 (ii) regardless of the manner in which the one or more communications channels are
12456 connected.
12457 (b) "Private communications service" includes the following provided in connection
12458 with the use of one or more communications channels:
12459 (i) an extension line;
12460 (ii) a station;
12461 (iii) switching capacity; or
12462 (iv) another associated service that is provided in connection with the use of one or
12463 more communications channels as defined in Section 59-12-215.

- 12464 (104)(a) "Product transferred electronically" means a product transferred electronically
12465 that would be subject to a tax under this chapter if that product was transferred in a
12466 manner other than electronically.

- 12467 (b) "Product transferred electronically" does not include:
12468 (i) an ancillary service;
12469 (ii) computer software; or
12470 (iii) a telecommunications service.

- 12471 (105)(a) "Prosthetic device" means a device that is worn on or in the body to:
12472 (i) artificially replace a missing portion of the body;

- 12473 (ii) prevent or correct a physical deformity or physical malfunction; or
12474 (iii) support a weak or deformed portion of the body.
- 12475 (b) "Prosthetic device" includes:
- 12476 (i) parts used in the repairs or renovation of a prosthetic device;
12477 (ii) replacement parts for a prosthetic device;
12478 (iii) a dental prosthesis; or
12479 (iv) a hearing aid.
- 12480 (c) "Prosthetic device" does not include:
- 12481 (i) corrective eyeglasses; or
12482 (ii) contact lenses.
- 12483 (106)(a) "Protective equipment" means an item:
- 12484 (i) for human wear; and
12485 (ii) that is:
- 12486 (A) designed as protection:
- 12487 (I) to the wearer against injury or disease; or
12488 (II) against damage or injury of other persons or property; and
12489 (B) not suitable for general use.
- 12490 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
12491 commission shall make rules:
- 12492 (i) listing the items that constitute "protective equipment"; and
12493 (ii) that are consistent with the list of items that constitute "protective equipment"
12494 under the agreement.
- 12495 (107)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or
12496 printed matter, other than a photocopy:
- 12497 (i) regardless of:
- 12498 (A) characteristics;
12499 (B) copyright;
12500 (C) form;
12501 (D) format;
12502 (E) method of reproduction; or
12503 (F) source; and
12504 (ii) made available in printed or electronic format.
- 12505 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
12506 commission may by rule define the term "photocopy."

- 12507 (108)(a) "Purchase price" and "sales price" mean the total amount of consideration:
- 12508 (i) valued in money; and
- 12509 (ii) for which tangible personal property, a product transferred electronically, or
- 12510 services are:
- 12511 (A) sold;
- 12512 (B) leased; or
- 12513 (C) rented.
- 12514 (b) "Purchase price" and "sales price" include:
- 12515 (i) the seller's cost of the tangible personal property, a product transferred
- 12516 electronically, or services sold;
- 12517 (ii) expenses of the seller, including:
- 12518 (A) the cost of materials used;
- 12519 (B) a labor cost;
- 12520 (C) a service cost;
- 12521 (D) interest;
- 12522 (E) a loss;
- 12523 (F) the cost of transportation to the seller; or
- 12524 (G) a tax imposed on the seller;
- 12525 (iii) a charge by the seller for any service necessary to complete the sale; or
- 12526 (iv) consideration a seller receives from a person other than the purchaser if:
- 12527 (A)(I) the seller actually receives consideration from a person other than the
- 12528 purchaser; and
- 12529 (II) the consideration described in Subsection (108)(b)(iv)(A)(I) is directly
- 12530 related to a price reduction or discount on the sale;
- 12531 (B) the seller has an obligation to pass the price reduction or discount through to
- 12532 the purchaser;
- 12533 (C) the amount of the consideration attributable to the sale is fixed and
- 12534 determinable by the seller at the time of the sale to the purchaser; and
- 12535 (D)(I)(Aa) the purchaser presents a certificate, coupon, or other
- 12536 documentation to the seller to claim a price reduction or discount; and
- 12537 (Bb) a person other than the seller authorizes, distributes, or grants the
- 12538 certificate, coupon, or other documentation with the understanding that
- 12539 the person other than the seller will reimburse any seller to whom the
- 12540 certificate, coupon, or other documentation is presented;

- 12541 (II) the purchaser identifies that purchaser to the seller as a member of a group
12542 or organization allowed a price reduction or discount, except that a
12543 preferred customer card that is available to any patron of a seller does not
12544 constitute membership in a group or organization allowed a price reduction
12545 or discount; or
- 12546 (III) the price reduction or discount is identified as a third party price reduction
12547 or discount on the:
12548 (Aa) invoice the purchaser receives; or
12549 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 12550 (c) "Purchase price" and "sales price" do not include:
- 12551 (i) a discount:
- 12552 (A) in a form including:
- 12553 (I) cash;
12554 (II) term; or
12555 (III) coupon;
- 12556 (B) that is allowed by a seller;
12557 (C) taken by a purchaser on a sale; and
12558 (D) that is not reimbursed by a third party; or
- 12559 (ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if
12560 separately stated on an invoice, bill of sale, or similar document provided to the
12561 purchaser at the time of sale or later, as demonstrated by the books and records the
12562 seller keeps at the time of the transaction in the regular course of business,
12563 including books and records the seller keeps at the time of the transaction in the
12564 regular course of business for nontax purposes, by a preponderance of the facts
12565 and circumstances at the time of the transaction, and by the understanding of all of
12566 the parties to the transaction:
- 12567 (A) the following from credit extended on the sale of tangible personal property or
12568 services:
- 12569 (I) a carrying charge;
12570 (II) a financing charge; or
12571 (III) an interest charge;
- 12572 (B) a delivery charge;
12573 (C) an installation charge;
12574 (D) a manufacturer rebate on a motor vehicle; or

- 12575 (E) a tax or fee legally imposed directly on the consumer.
- 12576 (109) "Purchaser" means a person to whom:
- 12577 (a) a sale of tangible personal property is made;
- 12578 (b) a product is transferred electronically; or
- 12579 (c) a service is furnished.
- 12580 (110) "Qualifying data center" means a data center facility that:
- 12581 (a) houses a group of networked server computers in one physical location in order to
- 12582 disseminate, manage, and store data and information;
- 12583 (b) is located in the state;
- 12584 (c) is a new operation constructed on or after July 1, 2016;
- 12585 (d) consists of one or more buildings that total 150,000 or more square feet;
- 12586 (e) is owned or leased by:
- 12587 (i) the operator of the data center facility; or
- 12588 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 12589 operator of the data center facility; and
- 12590 (f) is located on one or more parcels of land that are owned or leased by:
- 12591 (i) the operator of the data center facility; or
- 12592 (ii) a person under common ownership, as defined in Section 59-7-101, of the
- 12593 operator of the data center facility.
- 12594 (111) "Qualifying energy storage manufacturing facility" means a facility that
- 12595 manufactures, in the state, equipment or devices that store and discharge energy for the
- 12596 purpose of providing electrical power.
- 12597 (112) "Regularly rented" means:
- 12598 (a) rented to a guest for value three or more times during a calendar year; or
- 12599 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 12600 value.
- 12601 (113) "Rental" means the same as that term is defined in Subsection (64).
- 12602 (114)(a) "Repairs or renovations of tangible personal property" means:
- 12603 (i) a repair or renovation of tangible personal property that is not permanently
- 12604 attached to real property; or
- 12605 (ii) attaching tangible personal property or a product transferred electronically to
- 12606 other tangible personal property or detaching tangible personal property or a
- 12607 product transferred electronically from other tangible personal property if:
- 12608 (A) the other tangible personal property to which the tangible personal property or

- 12609 product transferred electronically is attached or from which the tangible
12610 personal property or product transferred electronically is detached is not
12611 permanently attached to real property; and
- 12612 (B) the attachment of tangible personal property or a product transferred
12613 electronically to other tangible personal property or detachment of tangible
12614 personal property or a product transferred electronically from other tangible
12615 personal property is made in conjunction with a repair or replacement of
12616 tangible personal property or a product transferred electronically.
- 12617 (b) "Repairs or renovations of tangible personal property" does not include:
- 12618 (i) attaching prewritten computer software to other tangible personal property if the
12619 other tangible personal property to which the prewritten computer software is
12620 attached is not permanently attached to real property; or
- 12621 (ii) detaching prewritten computer software from other tangible personal property if
12622 the other tangible personal property from which the prewritten computer software
12623 is detached is not permanently attached to real property.
- 12624 (115) "Research and development" means the process of inquiry or experimentation aimed
12625 at the discovery of facts, devices, technologies, or applications and the process of
12626 preparing those devices, technologies, or applications for marketing.
- 12627 (116)(a) "Residential telecommunications services" means a telecommunications service
12628 or an ancillary service that is provided to an individual for personal use:
- 12629 (i) at a residential address; or
- 12630 (ii) at an institution, including a nursing home or a school, if the telecommunications
12631 service or ancillary service is provided to and paid for by the individual residing at
12632 the institution rather than the institution.
- 12633 (b) For purposes of Subsection (116)(a)(i), a residential address includes an:
- 12634 (i) apartment; or
- 12635 (ii) other individual dwelling unit.
- 12636 (117) "Residential use" means the use in or around a home, apartment building, sleeping
12637 quarters, and similar facilities or accommodations.
- 12638 (118) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:
- 12639 (a) resale;
- 12640 (b) sublease; or
- 12641 (c) subrent.
- 12642 (119)(a) "Retailer" means any person, unless prohibited by the Constitution of the

United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(120)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(121) "Sale at retail" means the same as that term is defined in Subsection (118).

(122) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

- 12677 (A) capitalize the tangible personal property or product transferred electronically
12678 for financial reporting purposes; and
- 12679 (B) account for the lease payments as payments made under a financing
12680 arrangement.
- 12681 (123) "Sales price" means the same as that term is defined in Subsection (108).
- 12682 (124)(a) "Sales relating to schools" means the following sales by, amounts paid to, or
12683 amounts charged by a school:
- 12684 (i) sales that are directly related to the school's educational functions or activities
12685 including:
- 12686 (A) the sale of:
- 12687 (I) textbooks;
- 12688 (II) textbook fees;
- 12689 (III) laboratory fees;
- 12690 (IV) laboratory supplies; or
- 12691 (V) safety equipment;
- 12692 (B) the sale of a uniform, protective equipment, or sports or recreational
12693 equipment that:
- 12694 (I) a student is specifically required to wear as a condition of participation in a
12695 school-related event or school-related activity; and
- 12696 (II) is not readily adaptable to general or continued usage to the extent that it
12697 takes the place of ordinary clothing;
- 12698 (C) sales of the following if the net or gross revenue generated by the sales is
12699 deposited into a school district fund or school fund dedicated to school meals:
- 12700 (I) food and food ingredients; or
- 12701 (II) prepared food; or
- 12702 (D) transportation charges for official school activities; or
- 12703 (ii) amounts paid to or amounts charged by a school for admission to a school-related
12704 event or school-related activity.
- 12705 (b) "Sales relating to schools" does not include:
- 12706 (i) bookstore sales of items that are not educational materials or supplies;
- 12707 (ii) except as provided in Subsection (124)(a)(i)(B):
- 12708 (A) clothing;
- 12709 (B) clothing accessories or equipment;
- 12710 (C) protective equipment; or

- 12711 (D) sports or recreational equipment; or
- 12712 (iii) amounts paid to or amounts charged by a school for admission to a
- 12713 school-related event or school-related activity if the amounts paid or charged are
- 12714 passed through to a person:
- 12715 (A) other than a:
- 12716 (I) school;
- 12717 (II) nonprofit organization authorized by a school board or a governing body of
- 12718 a private school to organize and direct a competitive secondary school
- 12719 activity; or
- 12720 (III) nonprofit association authorized by a school board or a governing body of
- 12721 a private school to organize and direct a competitive secondary school
- 12722 activity; and
- 12723 (B) that is required to collect sales and use taxes under this chapter.
- 12724 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 12725 commission may make rules defining the term "passed through."
- 12726 (125) For purposes of this section and Section 59-12-104, "school" means:
- 12727 (a) an elementary school or a secondary school that:
- 12728 (i) is a:
- 12729 (A) public school; or
- 12730 (B) private school; and
- 12731 (ii) provides instruction for one or more grades kindergarten through 12; or
- 12732 (b) a public school district.
- 12733 (126)(a) "Seller" means a person that makes a sale, lease, or rental of:
- 12734 (i) tangible personal property;
- 12735 (ii) a product transferred electronically; or
- 12736 (iii) a service.
- 12737 (b) "Seller" includes a marketplace facilitator.
- 12738 (127)(a) "Semiconductor fabricating, processing, research, or development materials"
- 12739 means tangible personal property or a product transferred electronically if the
- 12740 tangible personal property or product transferred electronically is:
- 12741 (i) used primarily in the process of:
- 12742 (A)(I) manufacturing a semiconductor;
- 12743 (II) fabricating a semiconductor; or
- 12744 (III) research or development of a:

- 12745 (Aa) semiconductor; or
- 12746 (Bb) semiconductor manufacturing process; or
- 12747 (B) maintaining an environment suitable for a semiconductor; or
- 12748 (ii) consumed primarily in the process of:
- 12749 (A)(I) manufacturing a semiconductor;
- 12750 (II) fabricating a semiconductor; or
- 12751 (III) research or development of a:
- 12752 (Aa) semiconductor; or
- 12753 (Bb) semiconductor manufacturing process; or
- 12754 (B) maintaining an environment suitable for a semiconductor.
- 12755 (b) "Semiconductor fabricating, processing, research, or development materials"
- 12756 includes:
- 12757 (i) parts used in the repairs or renovations of tangible personal property or a product
- 12758 transferred electronically described in Subsection (127)(a); or
- 12759 (ii) a chemical, catalyst, or other material used to:
- 12760 (A) produce or induce in a semiconductor a:
- 12761 (I) chemical change; or
- 12762 (II) physical change;
- 12763 (B) remove impurities from a semiconductor; or
- 12764 (C) improve the marketable condition of a semiconductor.
- 12765 (128) "Senior citizen center" means a facility having the primary purpose of providing
- 12766 services to the aged as defined in Section 26B-6-101.
- 12767 (129) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.
- 12768 (130) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.
- 12769 (131) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.
- 12770 (132)(a) Subject to Subsections (132)(b) and (c), "short-term lodging consumable"
- 12771 means tangible personal property that:
- 12772 (i) a business that provides accommodations and services described in Subsection
- 12773 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations
- 12774 and services to a purchaser;
- 12775 (ii) is intended to be consumed by the purchaser; and
- 12776 (iii) is:
- 12777 (A) included in the purchase price of the accommodations and services; and
- 12778 (B) not separately stated on an invoice, bill of sale, or other similar document

12779 provided to the purchaser.

12780 (b) "Short-term lodging consumable" includes:

12781 (i) a beverage;

12782 (ii) a brush or comb;

12783 (iii) a cosmetic;

12784 (iv) a hair care product;

12785 (v) lotion;

12786 (vi) a magazine;

12787 (vii) makeup;

12788 (viii) a meal;

12789 (ix) mouthwash;

12790 (x) nail polish remover;

12791 (xi) a newspaper;

12792 (xii) a notepad;

12793 (xiii) a pen;

12794 (xiv) a pencil;

12795 (xv) a razor;

12796 (xvi) saline solution;

12797 (xvii) a sewing kit;

12798 (xviii) shaving cream;

12799 (xix) a shoe shine kit;

12800 (xx) a shower cap;

12801 (xxi) a snack item;

12802 (xxii) soap;

12803 (xxiii) toilet paper;

12804 (xxiv) a toothbrush;

12805 (xxv) toothpaste; or

12806 (xxvi) an item similar to Subsections (132)(b)(i) through (xxv) as the commission

12807 may provide by rule made in accordance with Title 63G, Chapter 3, Utah

12808 Administrative Rulemaking Act.

12809 (c) "Short-term lodging consumable" does not include:

12810 (i) tangible personal property that is cleaned or washed to allow the tangible personal
12811 property to be reused; or

12812 (ii) a product transferred electronically.

- 12813 (133)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.
- 12814 (b) "Short-term rental" does not include car sharing.
- 12815 (134) "Simplified electronic return" means the electronic return:
- 12816 (a) described in Section 318(C) of the agreement; and
- 12817 (b) approved by the governing board of the agreement.
- 12818 (135) "Solar energy" means the sun used as the sole source of energy for producing
- 12819 electricity.
- 12820 (136)(a) "Sports or recreational equipment" means an item:
- 12821 (i) designed for human use; and
- 12822 (ii) that is:
- 12823 (A) worn in conjunction with:
- 12824 (I) an athletic activity; or
- 12825 (II) a recreational activity; and
- 12826 (B) not suitable for general use.
- 12827 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 12828 commission shall make rules:
- 12829 (i) listing the items that constitute "sports or recreational equipment"; and
- 12830 (ii) that are consistent with the list of items that constitute "sports or recreational
- 12831 equipment" under the agreement.
- 12832 (137) "State" means the state of Utah, its departments, and agencies.
- 12833 (138) "Storage" means any keeping or retention of tangible personal property or any other
- 12834 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
- 12835 sale in the regular course of business.
- 12836 (139)(a) "Tangible personal property" means personal property that:
- 12837 (i) may be:
- 12838 (A) seen;
- 12839 (B) weighed;
- 12840 (C) measured;
- 12841 (D) felt; or
- 12842 (E) touched; or
- 12843 (ii) is in any manner perceptible to the senses.
- 12844 (b) "Tangible personal property" includes:
- 12845 (i) electricity;
- 12846 (ii) water;

- 12847 (iii) gas;
12848 (iv) steam; or
12849 (v) prewritten computer software, regardless of the manner in which the prewritten
12850 computer software is transferred.
- 12851 (c) "Tangible personal property" includes the following regardless of whether the item is
12852 attached to real property:
12853 (i) a dishwasher;
12854 (ii) a dryer;
12855 (iii) a freezer;
12856 (iv) a microwave;
12857 (v) a refrigerator;
12858 (vi) a stove;
12859 (vii) a washer; or
12860 (viii) an item similar to Subsections (139)(c)(i) through (vii) as determined by the
12861 commission by rule made in accordance with Title 63G, Chapter 3, Utah
12862 Administrative Rulemaking Act.
- 12863 (d) "Tangible personal property" does not include a product that is transferred
12864 electronically.
- 12865 (e) "Tangible personal property" does not include the following if attached to real
12866 property, regardless of whether the attachment to real property is only through a line
12867 that supplies water, electricity, gas, telephone, cable, or supplies a similar item as
12868 determined by the commission by rule made in accordance with Title 63G, Chapter 3,
12869 Utah Administrative Rulemaking Act:
12870 (i) a hot water heater;
12871 (ii) a water filtration system; or
12872 (iii) a water softener system.
- 12873 (140)(a) "Telecommunications enabling or facilitating equipment, machinery, or
12874 software" means an item listed in Subsection (140)(b) if that item is purchased or
12875 leased primarily to enable or facilitate one or more of the following to function:
12876 (i) telecommunications switching or routing equipment, machinery, or software; or
12877 (ii) telecommunications transmission equipment, machinery, or software.
- 12878 (b) The following apply to Subsection (140)(a):
12879 (i) a pole;
12880 (ii) software;

- (iii) a supplementary power supply;
- (iv) temperature or environmental equipment or machinery;
- (v) test equipment;
- (vi) a tower; or
- (vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (140)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (140)(b)(i) through (vi).

(141) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(142) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

- (a) telecommunications enabling or facilitating equipment, machinery, or software;
- (b) telecommunications switching or routing equipment, machinery, or software; or
- (c) telecommunications transmission equipment, machinery, or software.

(143)(a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

- (i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
 - (A) on the code, form, or protocol of the content;
 - (B) for the purpose of electronic conveyance, routing, or transmission; and
 - (C) regardless of whether the service:
 - (I) is referred to as voice over Internet protocol service; or
 - (II) is classified by the Federal Communications Commission as enhanced or value added;
- (ii) an 800 service;

- 12915 (iii) a 900 service;
- 12916 (iv) a fixed wireless service;
- 12917 (v) a mobile wireless service;
- 12918 (vi) a postpaid calling service;
- 12919 (vii) a prepaid calling service;
- 12920 (viii) a prepaid wireless calling service; or
- 12921 (ix) a private communications service.
- 12922 (c) "Telecommunications service" does not include:
- 12923 (i) advertising, including directory advertising;
- 12924 (ii) an ancillary service;
- 12925 (iii) a billing and collection service provided to a third party;
- 12926 (iv) a data processing and information service if:
- 12927 (A) the data processing and information service allows data to be:
- 12928 (I)(Aa) acquired;
- 12929 (Bb) generated;
- 12930 (Cc) processed;
- 12931 (Dd) retrieved; or
- 12932 (Ee) stored; and
- 12933 (II) delivered by an electronic transmission to a purchaser; and
- 12934 (B) the purchaser's primary purpose for the underlying transaction is the processed
- 12935 data or information;
- 12936 (v) installation or maintenance of the following on a customer's premises:
- 12937 (A) equipment; or
- 12938 (B) wiring;
- 12939 (vi) Internet access service;
- 12940 (vii) a paging service;
- 12941 (viii) a product transferred electronically, including:
- 12942 (A) music;
- 12943 (B) reading material;
- 12944 (C) a ring tone;
- 12945 (D) software; or
- 12946 (E) video;
- 12947 (ix) a radio and television audio and video programming service:
- 12948 (A) regardless of the medium; and

- 12949 (B) including:
- 12950 (I) furnishing conveyance, routing, or transmission of a television audio and
- 12951 video programming service by a programming service provider;
- 12952 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 12953 (III) audio and video programming services delivered by a commercial mobile
- 12954 radio service provider as defined in 47 C.F.R. Sec. 20.3;
- 12955 (x) a value-added nonvoice data service; or
- 12956 (xi) tangible personal property.
- 12957 (144)(a) "Telecommunications service provider" means a person that:
- 12958 (i) owns, controls, operates, or manages a telecommunications service; and
- 12959 (ii) engages in an activity described in Subsection (144)(a)(i) for the shared use with
- 12960 or resale to any person of the telecommunications service.
- 12961 (b) A person described in Subsection (144)(a) is a telecommunications service provider
- 12962 whether or not the Public Service Commission of Utah regulates:
- 12963 (i) that person; or
- 12964 (ii) the telecommunications service that the person owns, controls, operates, or
- 12965 manages.
- 12966 (145)(a) "Telecommunications switching or routing equipment, machinery, or software"
- 12967 means an item listed in Subsection (145)(b) if that item is purchased or leased
- 12968 primarily for switching or routing:
- 12969 (i) an ancillary service;
- 12970 (ii) data communications;
- 12971 (iii) voice communications; or
- 12972 (iv) telecommunications service.
- 12973 (b) The following apply to Subsection (145)(a):
- 12974 (i) a bridge;
- 12975 (ii) a computer;
- 12976 (iii) a cross connect;
- 12977 (iv) a modem;
- 12978 (v) a multiplexer;
- 12979 (vi) plug in circuitry;
- 12980 (vii) a router;
- 12981 (viii) software;
- 12982 (ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (145)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (145)(b)(i) through (ix).

(146)(a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (146)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

- (i) an ancillary service;
- (ii) data communications;
- (iii) voice communications; or
- (iv) telecommunications service.

(b) The following apply to Subsection (146)(a):

- (i) an amplifier;
- (ii) a cable;
- (iii) a closure;
- (iv) a conduit;
- (v) a controller;
- (vi) a duplexer;
- (vii) a filter;
- (viii) an input device;
- (ix) an input/output device;
- (x) an insulator;
- (xi) microwave machinery or equipment;
- (xii) an oscillator;
- (xiii) an output device;
- (xiv) a pedestal;
- (xv) a power converter;
- (xvi) a power supply;
- (xvii) a radio channel;
- (xviii) a radio receiver;
- (xix) a radio transmitter;
- (xx) a repeater;

(xxi) software;
(xxii) a terminal;
(xxiii) a timing unit;
(xxiv) a transformer;
(xxv) a wire; or
(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv) as the commission determines by rule made in accordance with Subsection (146)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (146)(b)(i) through (xxv).
(147)(a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:
(i) offered by an institution of higher education; and
(ii) that the purchaser of the textbook or other printed material attends or will attend.
(b) "Textbook for a higher education course" includes a textbook in electronic format.

(148) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

(149) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(150)(a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(151) "Value-added nonvoice data service" means a service:

- (a) that otherwise meets the definition of a telecommunications service except that a

computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(152)(a) Subject to Subsection (152)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (152)(a); or

(ii)(A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(153) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (152).

(154)(a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(155)(a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(156)(a) "Waste energy facility" means a facility that generates electricity:

- (i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:
- (A) tires;
 - (B) waste coal;
 - (C) oil shale; or
 - (D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

- (i) hospital waste as defined in 40 C.F.R. 60.51c; or
- (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(157) "Watercraft" means a vessel as defined in Section 73-18-2.

(158) "Wind energy" means wind used as the sole source of energy to produce electricity.

(159) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 134. Section **59-12-702** is amended to read:

59-12-702 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Administrative unit" means a division of a private nonprofit organization or institution that:

- (a) would, if it were a separate entity, be a botanical organization or cultural organization; and
- (b) consistently maintains books and records separate from those of the administrative unit's parent organization.

(2) "Aquarium" means a park or building where a collection of water animals and plants is kept for study, conservation, and public exhibition.

(3) "Aviary" means a park or building where a collection of birds is kept for study, conservation, and public exhibition.

(4) "Botanical organization" means:

- (a) a private nonprofit organization or institution having as the private nonprofit organization's or institution's primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or
- (b) an administrative unit.

(5) "Cultural facility" means the same as that term is defined in Section 59-12-602.

- 13119 (6)(a) "Cultural organization" means:
- 13120 (i) a private nonprofit organization or institution having as the private nonprofit
- 13121 organization's or institution's primary purpose the advancement and preservation
- 13122 of:
- 13123 (A) natural history;
- 13124 (B) art;
- 13125 (C) music;
- 13126 (D) theater;
- 13127 (E) dance; or
- 13128 (F) cultural arts, including literature, a motion picture, or storytelling; and
- 13129 (ii) an administrative unit.
- 13130 (b) "Cultural organization" includes, for purposes of Subsections 59-12-704(1)(d) and
- 13131 (10) only:
- 13132 (i) a private nonprofit organization or institution having as the private nonprofit
- 13133 organization's or institution's primary purpose the advancement and preservation
- 13134 of history; or
- 13135 (ii) a municipal or county cultural council having as the municipal or county cultural
- 13136 council's primary purpose the advancement and preservation of:
- 13137 (A) history;
- 13138 (B) natural history;
- 13139 (C) art;
- 13140 (D) music;
- 13141 (E) theater; or
- 13142 (F) dance.
- 13143 (c) "Cultural organization" does not include:
- 13144 (i) an agency of the state;
- 13145 (ii) except as provided in Subsection (6)(b)(ii), a political subdivision of the state;
- 13146 (iii) an educational institution for which annual revenue is directly derived more than
- 13147 50% from state funds; or
- 13148 (iv) in a county of the first or second class, a radio or television broadcasting network
- 13149 or station, cable communications system, newspaper, or magazine.
- 13150 (7) "Institution" means an institution of higher education listed in [~~Subsection 53B-1-102~~
- 13151 ~~(4)(a)~~] Subsection 53H-1-102(1)(a).
- 13152 (8) "Recreational facility" means a publicly owned or operated park, campground, marina,

dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.

(9) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.

(10) In a county of the first class, "zoological facility" means a public, public-private partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway, roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, fish, or an amphibian.

(11)(a)(i) Except as provided in Subsection (11)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as the nonprofit organization's primary purpose the advancement and exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

(b) "Zoological organization" does not include an agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(12) "Zoological park" means a park or garden where a collection of wild animals is kept for study, conservation, and public exhibition.

Section 135. Section **61-1-32** is amended to read:

61-1-32 (Effective upon governor's approval). Exemptions from licensure.

(1) As used in this section, "DOD civilian" means the same as that term is defined in Section ~~[53B-8-102]~~ 53H-11-202.

(2) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other

federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(c) the spouse of an individual serving in the armed forces of the United States or the spouse of a DOD civilian while the individual or DOD civilian is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Section 136. Section **61-2f-102** is amended to read:

61-2f-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Admonition" means a public discipline that declares the conduct of a person as improper and does not identify the person.

(2)(a) "Advertisement" means a notice or announcement meant to:

(i) promote the availability of real estate, an option on real estate, or a business opportunity for sale, exchange, auction, or lease;

(ii) offer specific types of brokerage services; or

(iii) specifically solicit the public to contact that licensee for more information.

(b) "Advertisement" does not include a social media post that generally identifies the person as being engaged in the profession of real estate if the social media post does not:

(i) promote the availability of real estate, an option on real estate, or a business opportunity for sale, exchange, auction, or lease;

(ii) offer specific types of brokerage services; or

(iii) specifically solicit the public to contact that licensee for more information.

(3) "Advertising" or "advertise" means placing or directing the placement of an advertisement.

(4) "Associate broker" means an individual who is:

(a) employed or engaged as an independent contractor by or on behalf of a principal

broker to perform an act described in Subsection (29) for valuable consideration; and

(b) licensed or is required to be licensed under this chapter as an associate broker.

- (5) "Branch broker" means an associate broker who manages a principal broker's branch office under the supervision of the principal broker.
- (6) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.
- (7) "Brokerage" means an entity registered or required to be registered with the division pursuant to Section 61-2f-206.
- (8) "Brokerage name" means:
- (a) the name of the brokerage as shown on division records;
 - (b) the name of a branch office of the brokerage; or
 - (c) a DBA of the brokerage.
- (9) "Business day" means a day other than:
- (a) a Saturday;
 - (b) a Sunday; or
 - (c) a federal or state holiday.
- (10) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.
- (11) "Commission" means the Real Estate Commission established under this chapter.
- (12) "Common interest association" means the same as that term is defined in Section 57-1-46.
- (13) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.
- (14)(a) "Condominium hotel" means one or more condominium units that are operated as a hotel.
- (b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.
- (15) "Condominium unit" means the same as that term is defined in Section 57-8-3.
- (16) "Director" means the director of the Division of Real Estate.
- (17) "Division" means the Division of Real Estate.
- (18) "Doing business as" or "DBA" means a name that is registered with the Division of Corporations and Commercial Code that allows a business to operate under a name different from the business's legal name.
- (19) "DOD civilian" means the same as that term is defined in Section [53B-8-102] 53H-11-202.
- (20) "Entity" means:

- 13255 (a) a corporation;
- 13256 (b) a partnership;
- 13257 (c) a limited liability company;
- 13258 (d) a company;
- 13259 (e) an association;
- 13260 (f) a joint venture;
- 13261 (g) a business trust;
- 13262 (h) a trust; or
- 13263 (i) any organization similar to an entity described in Subsections (20)(a) through (h).
- 13264 (21) "Executive director" means the director of the Department of Commerce.
- 13265 (22) "Factory built housing" means a manufactured home or mobile home.
- 13266 (23) "Foreclosure rescue" means, for compensation or with the expectation of receiving
- 13267 valuable consideration:
- 13268 (a) an act that:
- 13269 (i) the person represents will assist a borrower in preventing a foreclosure; and
- 13270 (ii) relates to a transaction involving the transfer of title to residential real property; or
- 13271 (b) as an employee or agent of another person:
- 13272 (i) a solicitation or an offer that the other person will engage in an act described in
- 13273 Subsection (23)(a); or
- 13274 (ii) negotiation of the terms in relationship to an act described in Subsection (23)(a).
- 13275 (24) "Loan modification assistance" means, for compensation or with the expectation of
- 13276 receiving valuable consideration:
- 13277 (a) an act, or an offer to act, on behalf of a person to:
- 13278 (i) obtain a loan term of a residential mortgage loan that is different from an existing
- 13279 loan term including:
- 13280 (A) an increase or decrease in an interest rate;
- 13281 (B) a change to the type of interest rate;
- 13282 (C) an increase or decrease in the principal amount of the residential mortgage
- 13283 loan;
- 13284 (D) a change in the number of required period payments;
- 13285 (E) an addition of collateral;
- 13286 (F) a change to, or addition of, a prepayment penalty;
- 13287 (G) an addition of a cosigner; or
- 13288 (H) a change in persons obligated under the existing residential mortgage loan; or

- 13289 (ii) a substitute of a new residential mortgage loan for an existing residential
13290 mortgage loan; or
- 13291 (b) as an employee or agent of another person:
- 13292 (i) a solicitation or an offer that the other person will engage in an act described in
13293 Subsection (24)(a); or
- 13294 (ii) negotiation of the terms in relationship to an act described in Subsection (24)(a).
- 13295 (25) "Main office" means the address that a principal broker designates with the division as
13296 the principal broker's primary brokerage office.
- 13297 (26) "Manufactured home" means the same as that term is defined in Section 15A-1-302.
- 13298 (27) "Mobile home" means the same as that term is defined in Section 15A-1-302.
- 13299 (28) "Person" means an individual or entity.
- 13300 (29) "Principal broker" means an individual who:
- 13301 (a) is licensed or required to be licensed as a principal broker under this chapter; and
- 13302 (b)(i) sells or lists for sale real estate, including real estate being sold as part of a
13303 foreclosure rescue, a business opportunity, or, unless licensed with the Division of
13304 Professional Licensing as a dealer under Title 58, Chapter 56, Building Inspector
13305 and Factory Built Housing Licensing Act, factory built housing, with the
13306 expectation of receiving valuable consideration;
- 13307 (ii) buys, exchanges, or auctions real estate, an option on real estate, a business
13308 opportunity, or, unless licensed with the Division of Professional Licensing as a
13309 dealer under Title 58, Chapter 56, Building Inspector and Factory Built Housing
13310 Licensing Act, factory built housing, with the expectation of receiving valuable
13311 consideration;
- 13312 (iii) advertises, offers, attempts, or otherwise holds the individual out to be engaged
13313 in the business described in Subsection (29)(a) or (b)(ii);
- 13314 (iv) is employed by or on behalf of the owner of real estate or by a prospective
13315 purchaser of real estate and performs an act described in Subsection (29)(a),
13316 whether the individual's compensation is at a stated salary, a commission basis,
13317 upon a salary and commission basis, or otherwise;
- 13318 (v) with the expectation of receiving valuable consideration, manages property
13319 owned by another person;
- 13320 (vi) advertises or otherwise holds the individual out to be engaged in property
13321 management;
- 13322 (vii) with the expectation of receiving valuable consideration, assists or directs in the

- 13323 procurement of prospects for or the negotiation of a transaction listed in
13324 Subsections (29)(a) and (v);
- 13325 (viii) except for a mortgage lender, title insurance producer, or an employee of a
13326 mortgage lender or title insurance producer, assists or directs in the closing of a
13327 real estate transaction with the expectation of receiving valuable consideration;
- 13328 (ix) engages in foreclosure rescue; or
- 13329 (x) advertises, offers, attempts, or otherwise holds the person out as being engaged in
13330 foreclosure rescue.
- 13331 (30)(a) "Property management" means the management of real estate owned by another
13332 person, with the expectation of receiving valuable consideration, or advertising or
13333 otherwise claiming to be engaged in the management of real estate owned by another
13334 person, by:
- 13335 (i) advertising for, arranging, negotiating, offering, or otherwise attempting or
13336 participating in a transaction calculated to secure the rental or leasing of real estate;
- 13337 (ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real
13338 estate; or
- 13339 (iii) signing a lease agreement or an addendum with a tenant.
- 13340 (b) "Property management" does not include:
- 13341 (i) hotel or motel management;
- 13342 (ii) rental of tourist accommodations, including hotels, motels, tourist homes,
13343 condominiums, condominium hotels, mobile home park accommodations,
13344 campgrounds, or similar public accommodations for a period of less than 30
13345 consecutive days, and the management activities associated with these rentals; or
- 13346 (iii) the leasing or management of surface or subsurface minerals or oil and gas
13347 interests, if the leasing or management is separate from a sale or lease of the
13348 surface estate.
- 13349 (31) "Property manager" means an individual who:
- 13350 (a) is licensed or required to be licensed as a property manager under this chapter; and
- 13351 (b)(i) engages in property management; or
- 13352 (ii) advertises or otherwise holds the individual out to be engaged in property
13353 management.
- 13354 (32) "Real estate" includes leaseholds and business opportunities involving real property.
- 13355 (33)(a) "Regular salaried employee" means an individual:
- 13356 (i) who performs a service for wages or other remuneration; and

(ii) whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

(34) "Reinstatement" means the restoration of a license that has expired or has been suspended.

(35) "Reissuance" means the process by which an individual may obtain a license following revocation of the license.

(36) "Renewal" means the extension of a license for an additional licensing period on or before the date the license expires.

(37) "Reprimand" means a public discipline that declares the conduct of a person as improper and includes the name of the person.

(38) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection (29); and

(b) licensed, or required to be licensed, under this chapter as a sales agent.

(39) "Transaction" means, whether complete or incomplete:

(a) a purchase of real estate;

(b) a sale of real estate;

(c) an exchange of real estate;

(d) a lease of real estate;

(e) an auction of real estate;

(f) management of real estate;

(g) an option on real estate; or

(h) a business opportunity.

(40) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

Section 137. Section **63A-3-103** is amended to read:

63A-3-103 (Effective upon governor's approval). Duties of director of division -- Application to institutions of higher education.

(1) The director of the Division of Finance shall:

(a) define fiscal procedures relating to approval and allocation of funds;

(b) provide for the accounting control of funds;

(c) promulgate rules that:

- 13391 (i) establish procedures for maintaining detailed records of all types of leases;
13392 (ii) account for all types of leases in accordance with generally accepted accounting
13393 principles;
13394 (iii) require the performance of a lease with an option to purchase study by state
13395 agencies prior to any lease with an option to purchase acquisition of capital
13396 equipment; and
13397 (iv) require that the completed lease with an option to purchase study be approved by
13398 the director of the Division of Finance;
13399 (d) if the department operates the Division of Finance as an internal service fund agency
13400 in accordance with Section 63A-1-109.5, submit to the Rate Committee established
13401 in Section 63A-1-114:
13402 (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
13403 (ii) other information or analysis requested by the Rate Committee;
13404 (e) oversee the Office of State Debt Collection;
13405 (f) publish the state's current constitutional debt limit on the public finance website
13406 established by the state auditor in accordance with Section 67-3-12; and
13407 (g) prescribe other fiscal functions required by law or under the constitutional authority
13408 of the governor to transact all executive business for the state.
13409 (2)(a) Institutions of higher education are subject to the provisions of Title 63A, Chapter
13410 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System,
13411 only to the extent expressly authorized or required by the Utah Board of Higher
13412 Education under [~~Title 53B, State System of Higher Education~~] Title 53H, Higher
13413 Education.
13414 (b) Institutions of higher education shall submit financial data for the past fiscal year
13415 conforming to generally accepted accounting principles to the director of the Division
13416 of Finance.
13417 (3) The Division of Finance shall prepare financial statements and other reports in
13418 accordance with legal requirements and generally accepted accounting principles for the
13419 state auditor's examination and certification:
13420 (a) not later than 60 days after a request from the state auditor; and
13421 (b) at the end of each fiscal year.
13422 Section 138. Section **63A-3-106** is amended to read:
13423 **63A-3-106 (Effective upon governor's approval). Per diem rates for board**
13424 **members.**

- 13425 (1) As used in this section and Section 63A-3-107:
- 13426 (a) "Board" means a board, commission, council, committee, task force, or similar body
- 13427 established to perform a governmental function.
- 13428 (b) "Board member" means a person appointed or designated by statute to serve on a
- 13429 board.
- 13430 (c) "Executive branch" means an agency within the executive branch of state
- 13431 government.
- 13432 (d)(i) "Governmental entity" has the same meaning, except as provided in Subsection
- 13433 (1)(d)(ii), as provided under Section 63G-2-103.
- 13434 (ii) "Governmental entity" does not include an association as defined in Section
- 13435 53G-7-1101.
- 13436 (e) "Higher education" means ~~[a state]~~ an institution of higher education, as defined
- 13437 under Section ~~[53B-1-102]~~ 53H-1-102.
- 13438 (f) "Officer" means a person who is elected or appointed to an office or position within a
- 13439 governmental entity.
- 13440 (g) "Official meeting" means a meeting of a board that is called in accordance with
- 13441 statute.
- 13442 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
- 13443 subject to approval by the executive director, the director of the Division of Finance
- 13444 shall make rules establishing per diem rates to defray subsistence costs for a board
- 13445 member's attendance at an official meeting.
- 13446 (3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is
- 13447 applicable to a board member who serves:
- 13448 (a) within the executive branch, except as provided under Subsection (3)(b);
- 13449 (b) within an institution of higher education, unless an institution of higher education
- 13450 pays the costs of the per diem;
- 13451 (c) on a board that is:
- 13452 (i) not included under Subsection (3)(a) or (b); and
- 13453 (ii) created by a statute that adopts the per diem rates by reference to:
- 13454 (A) this section; and
- 13455 (B) the rule authorized by this section; and
- 13456 (d) within a government entity that is not included under Subsection (3)(a), if the
- 13457 government entity adopts the per diem rates by reference to:
- 13458 (i) this section; or

(ii) the rule establishing the per diem rates.

(4)(a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.

(b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.

(5) A board member may decline to receive per diem for the board member's service.

(6) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 139. Section **63A-3-107** is amended to read:

63A-3-107 (Effective upon governor's approval). Travel expenses of board members and state officers and employees.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.

(2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1) is applicable to:

(a) a board member, an officer, or employee of the executive branch, except as provided under Subsection (2)(b);

(b) a board member, an officer, or employee of an institution of higher education, unless the institution of higher education pays the costs of the travel expenses;

(c) a board member who:

(i) is not included under Subsection (2)(a) or (b); and

(ii) serves on a board created by a statute that adopts the travel expense rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:

(i) this section; or

(ii) the rule establishing the travel expense provisions.

- (3) The Division of Finance shall make the travel expense rules on the basis of:
- (a) a mileage allowance; and
 - (b) reimbursement for other travel expenses incurred.
- (4) The travel expense rules may specify an exception to a travel expense rule or allow the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.
- (5) An officer or employee of the executive branch may not incur obligations for travel outside the state without the advance approval of the executive director or a designee of the executive director of an executive branch department or agency.
- (6) A board member may decline to receive travel expenses for the board member's service.
- (7) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- Section 140. Section **63A-3-201** is amended to read:
- 63A-3-201 (Effective upon governor's approval). Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.**
- (1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.
- (2) The director of the Division of Finance may:
- (a) organize the division and employ other assistants to discharge the functions of the division;
 - (b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and
 - (c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.
- (3)(a) As used in this Subsection (3):
- (i) "Public employee" means a person employed by a state agency.
 - (ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or

- 13527 administered by a state agency.
- 13528 (iii) "Public funds position" means employment with a state agency that requires:
- 13529 (A) physical or electronic access to public funds;
- 13530 (B) performing internal control functions or accounting;
- 13531 (C) creating reports on public funds; or
- 13532 (D) using, operating, or accessing state systems that account for or help account
- 13533 for public funds.
- 13534 (iv) "State agency" means:
- 13535 (A) an executive branch agency; or
- 13536 (B) a state educational institution with the exception of an institution ~~[defined]~~
- 13537 described in Subsection [53B-1-102(1)]. 53H-1-102(1).
- 13538 (b) The Division of Finance may require that a public employee who applies for or holds
- 13539 a public funds position:
- 13540 (i) submit a fingerprint card in a form acceptable to the division;
- 13541 (ii) consent to a criminal background check by:
- 13542 (A) the Federal Bureau of Investigation;
- 13543 (B) the Utah Bureau of Criminal Identification; or
- 13544 (C) another agency of any state that performs criminal background checks; or
- 13545 (iii) consent to a credit history report, subject to the requirements of the Fair Credit
- 13546 Reporting Act, 15 U.S.C. Sec. 1681 et seq.
- 13547 (c) The Bureau of Criminal Identification shall provide all the results from the state,
- 13548 regional, and nationwide criminal history background checks to the division.
- 13549 (d) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah
- 13550 Administrative Rulemaking Act, make rules to implement this section.
- 13551 Section 141. Section **63A-5b-102** is amended to read:
- 13552 **63A-5b-102 (Effective upon governor's approval). Definitions.**
- 13553 As used in this chapter:
- 13554 (1) "Capitol hill" means the same as that term is defined in Section 63O-1-101.
- 13555 (2) "Compliance agency" means the same as that term is defined in Section 15A-1-202.
- 13556 (3) "Director" means the division director, appointed under Section 63A-5b-302.
- 13557 (4) "Division" means the Division of Facilities Construction and Management created in
- 13558 Section 63A-5b-301.
- 13559 (5) "Institution of higher education" means ~~[an institution listed in Subsection 53B-2-101(1)]~~
- 13560 the same as that term is defined in Section 53H-1-101.

(6) "Trust lands administration" means the School and Institutional Trust Lands Administration established in Section 53C-1-201.

(7) "Utah Board of Higher Education" means the Utah Board of Higher Education established in Section ~~[53B-1-402]~~ 53H-1-203.

Section 142. Section **63A-5b-403** is amended to read:

63A-5b-403 (Effective upon governor's approval). Institutions of higher education -- Capital development projects -- Dedicated and nondedicated projects -- Recommendations and prioritization.

(1) As used in this section:

(a) "Dedicated project" has the same meaning as that term is defined in:

(i) Section ~~[53B-2a-101]~~ 53H-9-601, for a capital development project under [~~Title 53B, Chapter 2a, Technical Education~~] Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(ii) Section ~~[53B-22-201]~~ 53H-9-501, for a capital development project under [~~Title 53B, Chapter 22, Higher Education Capital Projects~~] Title 53H, Chapter 9, Part 5, General Capital Developments.

(b) "Nondedicated project" has the same meaning as that term is defined in:

(i) Section ~~[53B-2a-101]~~ 53H-9-601, for a capital development project under [~~Title 53B, Chapter 2a, Technical Education~~] Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(ii) Section ~~[53B-22-201]~~ 53H-9-501, for a capital development project under [~~Title 53B, Chapter 22, Higher Education Capital Projects~~] Title 53H, Chapter 9, Part 5, General Capital Developments.

(2)(a) The division shall submit recommendations to the Legislature in accordance with:

(i) Section ~~[53B-2a-117]~~ 53H-9-604, for a dedicated project under [~~Title 53B, Chapter 2a, Technical Education~~] Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(ii) Section ~~[53B-22-204]~~ 53H-9-504, for a dedicated project under [~~Title 53B, Chapter 22, Higher Education Capital Projects~~] Title 53H, Chapter 9, Part 5, General Capital Developments.

(b) A dedicated project is not subject to prioritization by the division.

(3)(a) The division shall prioritize nondedicated projects in accordance with:

(i) Section 63A-5b-402; and

(ii)(A) Section ~~[53B-2a-117]~~ 53H-9-604, for a nondedicated project under [~~Title~~

- 13595 ~~53B, Chapter 2a, Technical Education]~~ Title 53H, Chapter 9, Part 6, Technical
13596 College Leasing and Capital Development; or
13597 (B) Section ~~[53B-22-204]~~ 53H-9-504, for a nondedicated project under ~~[Title 53B,~~
13598 ~~Chapter 22, Higher Education Capital Projects]~~ Title 53H, Chapter 9, Part 5,
13599 General Capital Developments.
- 13600 (b) In the division's scoring process for prioritizing nondedicated projects, the division
13601 shall give more weight to a request that is designated as a higher priority by the Utah
13602 Board of Higher Education than a request that is designated as a lower priority by the
13603 Utah Board of Higher Education only for determining the order of prioritization
13604 among requests submitted by the Utah Board of Higher Education.
- 13605 (4) The division shall require that an institution of higher education that submits a request
13606 for a capital development project address whether and how, as a result of the project, the
13607 institution of higher education will:
- 13608 (a) offer courses or other resources that will help meet demand for jobs, training, and
13609 employment in the current market and the projected market for the next five years;
13610 (b) respond to individual skilled and technical job demand over the next three, five, and
13611 10 years;
13612 (c) respond to industry demands for trained workers;
13613 (d) help meet commitments made by the Governor's Office of Economic Opportunity,
13614 including relating to training and incentives;
13615 (e) respond to changing needs in the economy; and
13616 (f) respond to demands for online or in-class instruction, based on demographics.
- 13617 (5) The division shall:
- 13618 (a)(i) assist institutions of higher education in providing the information required by
13619 Subsection (4); and
13620 (ii) verify the completion and accuracy of the information submitted by an institution
13621 of higher education under Subsection (4);
- 13622 (b) assist the Utah Board of Higher Education to fulfill the requirements of Section [
13623 ~~53B-2a-112]~~ 53H-9-603 in connection with the finding that the division is required to
13624 make under Subsection ~~[53B-2a-112(4)(b)]~~ 53H-9-603(4)(b); and
- 13625 (c) assist the Utah Board of Higher Education in submitting a list of dedicated projects
13626 to the division for approval and nondedicated projects to the division for
13627 recommendation and prioritization pursuant to Section ~~[53B-22-204]~~ 53H-9-504.
13628 Section 143. Section **63A-5b-805** is amended to read:

63A-5b-805 (Effective upon governor's approval). Leasing by higher education institutions.

- (1) The Utah Board of Higher Education shall establish written policies and procedures governing leasing by an institution of higher education.
- (2) Except as provided in Section [~~53B-2a-113~~] 53H-9-602, an institution of higher education shall comply with the procedures and requirements of the Utah Board of Higher Education policies before signing or renewing a lease.

Section 144. Section **63A-9-101** is amended to read:

63A-9-101 (Effective upon governor's approval). Definitions.

As used in this part:

- (1)(a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.
- (b) "Agency" includes the State Board of Education and each higher education institution [~~described~~] listed in Section [~~53B-1-102~~] 53H-1-102.
- (c) "Agency" includes the legislative and judicial branches.
- (2) "Committee" means the Motor Vehicle Review Committee created by this chapter.
- (3) "Director" means the director of the division.
- (4) "Division" means the Division of Fleet Operations created by this chapter.
- (5) "Executive director" means the executive director of the Department of Government Operations.
- (6) "Local agency" means:
- (a) a county;
 - (b) a municipality;
 - (c) a school district;
 - (d) a special district;
 - (e) a special service district;
 - (f) an interlocal entity as defined under Section 11-13-103; or
 - (g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.
- (7)(a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.
- (b) "Motor vehicle" includes vehicles used for construction and other nontransportation purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section 145. Section **63A-16-803** is amended to read:

63A-16-803 (Effective upon governor's approval). Single sign-on citizen portal -- Creation.

(1) The division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

- (a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and
- (b) secure, centralized, and interconnected.

(2) The division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

- (a) access and submit an application for:
 - (i) medical and support programs including:
 - (A) a medical assistance program administered under Title 26B, Chapter 3, Health Care - Administration and Assistance, including Medicaid;
 - (B) the Children's Health Insurance Program under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program;
 - (C) the Primary Care Network as defined in Section 26B-3-211; and
 - (D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;
 - (ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;
 - (iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;
 - (iv) employment with a state agency;
 - (v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;
 - (vi) a birth or death certificate under Title 26B, Chapter 8, Part 1, Vital Statistics; and
 - (vii) a hunting or fishing license under Title 23A, Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;
- (b) access the individual's:
 - (i) transcripts from an institution of higher education [~~described~~] listed in Section [~~53B-2-101~~] 53H-1-102; and
 - (ii) immunization records maintained by the Department of Health and Human

- 13697 Services;
- 13698 (c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with
- 13699 the Motor Vehicle Division of the State Tax Commission;
- 13700 (d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income
- 13701 Tax Act, beginning December 1, 2020;
- 13702 (e) access information about positions available for employment with the state; and
- 13703 (f) access any other service or information the department determines is appropriate in
- 13704 consultation with the entities described in Subsection (4).
- 13705 (3) The division shall develop the single sign-on citizen portal using an open platform that:
- 13706 (a) facilitates participation in the portal by a state entity;
- 13707 (b) allows for optional participation in the portal by a political subdivision of the state;
- 13708 and
- 13709 (c) contains a link to the State Tax Commission website.
- 13710 (4) In developing the single sign-on citizen portal, the department shall consult with:
- 13711 (a) each state executive branch agency that administers a program, provides a service, or
- 13712 manages applicable information described in Subsection (2);
- 13713 (b) the Utah League of Cities and Towns;
- 13714 (c) the Utah Association of Counties; and
- 13715 (d) other appropriate state executive branch agencies.
- 13716 (5) The division shall ensure that the single sign-on citizen portal is fully operational no
- 13717 later than January 1, 2025.
- 13718 (6)(a) As used in this Subsection (6):
- 13719 (i) "Digital verifiable credential" means the same as that term is defined in Section
- 13720 63A-16-108.
- 13721 (ii) "Digital verifiable record" means the same as that term is defined in Section
- 13722 63A-16-108.
- 13723 (iii) "Offender" means the same as that term is defined in Section 64-13-1.
- 13724 (b) No later than January 1, 2027, the division shall ensure that a version of the single
- 13725 sign-on citizen portal is made available to an individual who:
- 13726 (i) is a Utah resident; and
- 13727 (ii)(A) is an offender; or
- 13728 (B) previously was an offender resulting from a conviction that occurred on or
- 13729 after January 1, 2027.
- 13730 (c) The portal described in Subsection (6)(b) shall include:

- 13731 (i) if possible, an electronic copy of, or link to, the individual's digital verifiable
13732 credentials and digital verifiable records; and
13733 (ii) if available:
13734 (A) information on the individual's debts such as restitution, court costs, fines, tax
13735 obligations, alimony, child support, other court-ordered payments, and similar
13736 debts; and
13737 (B) links or another method to access more information concerning the debts
13738 listed in Subsection (6)(c)(ii)(A).

13739 Section 146. Section **63A-16-1102** is amended to read:

13740 **63A-16-1102 (Effective upon governor's approval). Utah Cyber Center --**
13741 **Creation -- Duties.**

- 13742 (1)(a) There is created within the division the Utah Cyber Center.
13743 (b) The chief information security officer appointed under Section 63A-16-210 shall
13744 serve as the director of the Cyber Center.
13745 (2) The division shall operate the Cyber Center in partnership with the following entities
13746 within the Department of Public Safety created in Section 53-1-103:
13747 (a) the Statewide Information and Analysis Center;
13748 (b) the State Bureau of Investigation created in Section 53-10-301; and
13749 (c) the Division of Emergency Management created in Section 53-2a-103.
13750 (3) In addition to the entities described in Subsection (3), the Cyber Center shall collaborate
13751 with:
13752 (a) the Cybersecurity Commission created in Section 63C-27-201;
13753 (b) the Office of the Attorney General;
13754 (c) the Utah Education and Telehealth Network created in Section [53B-17-105]
13755 53H-4-213.4;
13756 (d) appropriate federal partners, including the Federal Bureau of Investigation and the
13757 Cybersecurity and Infrastructure Security Agency;
13758 (e) appropriate information sharing and analysis centers;
13759 (f) information technology directors, cybersecurity professionals, or equivalent
13760 individuals representing political subdivisions in the state; and
13761 (g) any other person the division believes is necessary to carry out the duties described
13762 in Subsection (4).
13763 (4) The Cyber Center shall, within legislative appropriations:
13764 (a) by June 30, 2024, develop a statewide strategic cybersecurity plan for governmental

entities;

(b) with respect to executive branch agencies:

(i) identify, analyze, and, when appropriate, mitigate cyber threats and vulnerabilities;

(ii) coordinate cybersecurity resilience planning;

(iii) provide cybersecurity incident response capabilities; and

(iv) recommend to the division standards, policies, or procedures to increase the cyber resilience of executive branch agencies individually or collectively;

(c) at the request of a governmental entity, coordinate cybersecurity incident response for a data breach affecting the governmental entity in accordance with Section 63A-19-405;

(d) promote cybersecurity best practices;

(e) share cyber threat intelligence with governmental entities and, through the Statewide Information and Analysis Center, with other public and private sector organizations;

(f) serve as the state cybersecurity incident response repository to receive reports of breaches of system security, including notification or disclosure under Section 13-44-202 and data breaches under Section 63A-16-1103;

(g) develop incident response plans to coordinate federal, state, local, and private sector activities and manage the risks associated with an attack or malfunction of critical information technology systems within the state;

(h) coordinate, develop, and share best practices for cybersecurity resilience in the state;

(i) identify sources of funding to make cybersecurity improvements throughout the state;

(j) develop a sharing platform to provide resources based on information, recommendations, and best practices; and

(k) partner with institutions of higher education and other public and private sector organizations to increase the state's cyber resilience.

Section 147. Section **63A-17-301** is amended to read:

63A-17-301 (Effective upon governor's approval). Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as provided in Subsection (3)(d), the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives

- 13799 enumerated in Section 67-22-2;
- 13800 (c) schedule AC includes all employees and officers in:
- 13801 (i) the office and at the residence of the governor;
- 13802 (ii) the Public Lands Policy Coordinating Office;
- 13803 (iii) the Office of the State Auditor; and
- 13804 (iv) the Office of the State Treasurer;
- 13805 (d) schedule AD includes employees who:
- 13806 (i) are in a confidential relationship to an agency head or commissioner; and
- 13807 (ii) report directly to, and are supervised by, a department head, commissioner, or
- 13808 deputy director of an agency or its equivalent;
- 13809 (e) schedule AE includes each employee of the State Board of Education that the State
- 13810 Board of Education designates as exempt from the career service provisions of this
- 13811 chapter;
- 13812 (f) schedule AG includes employees in the Office of the Attorney General who are under
- 13813 their own career service pay plan under Sections 67-5-7 through 67-5-13;
- 13814 (g) schedule AH includes:
- 13815 (i) teaching staff of all state institutions; and
- 13816 (ii) employees of the Utah Schools for the Deaf and the Blind who are:
- 13817 (A) educational interpreters as classified by the division; or
- 13818 (B) educators as defined by Section 53E-8-102;
- 13819 (h) schedule AN includes employees of the Legislature;
- 13820 (i) schedule AO includes employees of the judiciary;
- 13821 (j) schedule AP includes all judges in the judiciary;
- 13822 (k) schedule AQ includes:
- 13823 (i) members of state and local boards and councils appointed by the governor and
- 13824 governing bodies of agencies;
- 13825 (ii) a water commissioner appointed under Section 73-5-1;
- 13826 (iii) other local officials serving in an ex officio capacity; and
- 13827 (iv) officers, faculty, and other employees of [~~state universities and other state~~]
- 13828 institutions of higher education;
- 13829 (l) schedule AR includes employees in positions that involve responsibility:
- 13830 (i) for determining policy;
- 13831 (ii) for determining the way in which a policy is carried out; or
- 13832 (iii) of a type not appropriate for career service, as determined by the agency head

- 13833 with the concurrence of the director;
- 13834 (m) schedule AS includes any other employee:
- 13835 (i) whose appointment is required by statute to be career service exempt;
- 13836 (ii) whose agency is not subject to this chapter; or
- 13837 (iii) whose agency has authority to make rules regarding the performance,
- 13838 compensation, and bonuses for its employees;
- 13839 (n) schedule AT includes employees of the Division of Technology Services, designated
- 13840 as executive/professional positions by the director of the Division of Technology
- 13841 Services with the concurrence of the director of the division;
- 13842 (o) schedule AU includes patients and inmates employed in state institutions;
- 13843 (p) employees of the Department of Workforce Services, designated as schedule AW:
- 13844 (i) who are temporary employees that are federally funded and are required to work
- 13845 under federally qualified merit principles as certified by the director; or
- 13846 (ii) for whom substantially all of their work is repetitive, measurable, or transaction
- 13847 based, and who voluntarily apply for and are accepted by the Department of
- 13848 Workforce Services to work in a pay for performance program designed by the
- 13849 Department of Workforce Services with the concurrence of the director of the
- 13850 division;
- 13851 (q) subject to Subsection (6), schedule AX includes employees in positions that:
- 13852 (i) require the regular supervision and performance evaluation of one or more other
- 13853 employees; and
- 13854 (ii) are not designated exempt from career service under any other schedule described
- 13855 in this Subsection (1); and
- 13856 (r) for employees in positions that are temporary, seasonal, time limited, funding limited,
- 13857 or variable hour in nature, under schedule codes and parameters established by the
- 13858 division by administrative rule.
- 13859 (2) The civil service shall consist of two schedules as follows:
- 13860 (a)(i) Schedule A is the schedule consisting of positions under Subsection (1).
- 13861 (ii) Removal from any appointive position under schedule A, unless otherwise
- 13862 regulated by statute, is at the pleasure of the appointing officers without regard to
- 13863 tenure.
- 13864 (b) Schedule B is the competitive career service schedule, consisting of:
- 13865 (i) all positions filled through competitive selection procedures as defined by the
- 13866 director; or

(ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71A, Chapter 2, Veterans Preference.

(3)(a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.

(c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.

(d)(i) An agency may file a request with the division:

(A) to keep a position scheduled as a schedule B position as a schedule B position;

or

(B) to reschedule a position that is scheduled as a schedule A position as a schedule B position.

(ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law.

(4)(a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in [~~Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education~~] Title 53H, Chapter 1, Utah System of Higher Education, and Title 53H, Chapter 3, Institutions of Higher Education Generally.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the division.

(6)(a) An employee who is hired for a schedule AX position on or after July 1, 2022, is exempt from career service status.

(b) An employee who before July 1, 2022, is a career service employee employed in a schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall maintain the employee's career service status for the duration of the employee's employment in the same position unless the employee voluntarily converts to career service exempt status before July 1, 2023.

(c)(i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service status if:

(A) before July 1, 2022, the employee was a probationary employee in a schedule B position and had not completed the probationary period; and

(B) on July 1, 2022, the schedule B position in which the probationary employee is employed is rescheduled as a scheduled AX position.

(ii) An employee described in Subsection (6)(c)(i):

(A) is not a probationary employee on or after July 1, 2022; and

(B) is exempt from career service status on and after July 1, 2022, unless the employee changes employment to a schedule B position.

(d) The division shall disseminate to each employee described in Subsection (6)(b) information on financial and other incentives for voluntary conversion to career-service exempt status.

(e) An agency may adopt a policy, created in consultation with the division, for agency review of recommendations that schedule AX employees be suspended, demoted, or dismissed from employment.

Section 148. Section **63B-5-201** is amended to read:

63B-5-201 (Effective upon governor's approval). Legislative intent statements.

(1) If the United States Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

- 13935 (a) the Health Science East parking structure under the supervision of the director of the
13936 Division of Facilities Construction and Management unless supervisory authority is
13937 delegated by the director;
- 13938 (b) the Health Science Office Building under the supervision of the director of the
13939 Division of Facilities Construction and Management unless supervisory authority is
13940 delegated by the director; and
- 13941 (c) the new Student Housing/Olympic Athletes Village under the supervision of the
13942 director of the Division of Facilities Construction and Management unless
13943 supervisory authority is delegated by the director.
- 13944 (3) It is the intent of the Legislature that Utah State University use institutional funds to
13945 plan, design, and construct a multipurpose facility under the supervision of the director
13946 of the Division of Facilities Construction and Management unless supervisory authority
13947 is delegated by the director.
- 13948 (4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal
13949 funding to plan, design, and construct a sample library facility under the supervision of
13950 the director of the Division of Facilities Construction and Management unless
13951 supervisory authority is delegated by the director.
- 13952 (5)(a) If legislation introduced in the 1996 General Session to fund the Wasatch State
13953 Park Club House does not pass, the State Building Ownership Authority, under
13954 authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act,
13955 may issue or execute obligations, or enter into or arrange for a lease purchase
13956 agreement in which participation interests may be created, to provide up to
13957 \$1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain
13958 State Park for the Division of State Parks, formerly known as the Division of Parks
13959 and Recreation, together with additional amounts necessary to:
- 13960 (i) pay costs of issuance;
13961 (ii) pay capitalized interest; and
13962 (iii) fund any debt service reserve requirements.
- 13963 (b) The State Building Ownership Authority shall work cooperatively with the Division
13964 of State Parks, formerly known as the Division of Parks and Recreation, to seek out
13965 the most cost effective and prudent lease purchase plan available.
- 13966 (6)(a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1,
13967 Part 3, State Building Ownership Authority Act, may issue or execute obligations, or
13968 enter into or arrange for a lease purchase agreement in which participation interests

may be created, to provide up to \$835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage Services to seek out the most cost effective and prudent lease purchase plan available.

(7)(a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8)(a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Health and Human Services to seek out the most cost effective and prudent lease purchase plan available.

- 14003 (9)(a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1,
14004 Part 3, State Building Ownership Authority Act, may issue or execute obligations, or
14005 enter into or arrange for a lease purchase agreement in which participation interests
14006 may be created, to provide up to \$3,470,200 for the construction of the Student
14007 Services Center, at Utah State University Eastern, together with additional amounts
14008 necessary to:
- 14009 (i) pay costs of issuance;
 - 14010 (ii) pay capitalized interest; and
 - 14011 (iii) fund any debt service reserve requirements.
- 14012 (b) The State Building Ownership Authority shall work cooperatively with Utah State
14013 University Eastern to seek out the most cost effective and prudent lease purchase plan
14014 available.
- 14015 (10)(a) Notwithstanding anything to the contrary in [~~Title 53B, Chapter 21, Revenue~~
14016 ~~Bonds~~] Title 53H, Chapter 9, Part 3, Revenue Bonds, which prohibits the issuance of
14017 revenue bonds payable from legislative appropriations, the State Board of Regents,
14018 on behalf of [~~Dixie College~~] Utah Tech University, may issue, sell, and deliver
14019 revenue bonds or other evidences of indebtedness of [~~Dixie College~~] Utah Tech
14020 University to borrow money on the credit of the income and revenues, including
14021 legislative appropriations, of [~~Dixie College~~] Utah Tech University, to finance the
14022 acquisition of the Dixie Center.
- 14023 (b)(i) The bonds or other evidences of indebtedness authorized by this section shall
14024 be issued in accordance with [~~Title 53B, Chapter 21, Revenue Bonds~~] Title 53H,
14025 Chapter 9, Part 3, Revenue Bonds, under terms and conditions and in amounts that
14026 the board, by resolution, determines are reasonable and necessary and may not
14027 exceed \$6,000,000 together with additional amounts necessary to:
- 14028 (A) pay cost of issuance;
 - 14029 (B) pay capitalized interest; and
 - 14030 (C) fund any debt service reserve requirements.
- 14031 (ii) To the extent that future legislative appropriations will be required to provide for
14032 payment of debt service in full, the board shall ensure that the revenue bonds are
14033 issued containing a clause that provides for payment from future legislative
14034 appropriations that are legally available for that purpose.
- 14035 (11)(a) The State Building Ownership Authority, under authority of Title 63B, Chapter
14036 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations,

or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,479,000 for the construction of a facility for the Courts - Davis County Regional Expansion, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(12)(a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$4,200,000 for the purchase and remodel of the Washington County Courthouse, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(13)(a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually Impaired, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the State Board of Education and the Governor's Office of Economic Opportunity to seek out the most cost effective and prudent lease purchase plan available.

Section 149. Section **63C-4a-303** is amended to read:

63C-4a-303 (Effective upon governor's approval) (Repealed 07/01/28).

Federalism Commission to evaluate federal law -- Curriculum on federalism -- Environment discussions -- Oversight of Center for Constitutional Studies in relation to center's federalism duties.

(1)(a) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

- (i) as agreed by a majority of the commission;
- (ii) submitted to the commission by a council member; or
- (iii) reported to the commission in accordance with Subsection (1)(b).

(b)(i) To assist the commission in the evaluation of federal law as required in this section and Section 63C-4a-304, the commission may contract with a third party that is a Utah institution of higher education to monitor federal law for possible implications on the principles of federalism.

(ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i) shall:

(A) monitor federal law for possible implications on the principles of federalism and state sovereignty; and

(B) report to the commission any law or action by the federal government that may implicate the principles of federalism or state sovereignty.

(c)(i) As used in this Subsection (1)(c), "interim committee" means the same as that term is defined in Section 36-12-1.

(ii) The commission shall provide an annual report to each interim committee concerning any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(iii) The commission may notify the appropriate interim committee of any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair or the commission may:

- (a) request from a United States senator or representative elected from the state:
 - (i) information about the federal law; or

- 14105 (ii) assistance in communicating with a federal governmental entity regarding the
14106 federal law;
- 14107 (b)(i) give written notice of an evaluation made under Subsection (1) to the federal
14108 governmental entity responsible for adopting or administering the federal law; and
14109 (ii) request a response by a specific date to the evaluation from the federal
14110 governmental entity;
- 14111 (c) request a meeting, conducted in person or by electronic means, with the federal
14112 governmental entity, a representative from another state, or a United States Senator
14113 or Representative elected from the state to discuss the evaluation of federal law and
14114 any possible remedy; or
- 14115 (d) give written notice of an evaluation and the conclusions of the commission to any
14116 other relevant entity.
- 14117 (4) The commission may recommend to the governor that the governor call a special
14118 session of the Legislature to give the Legislature an opportunity to respond to the
14119 commission's evaluation of a federal law.
- 14120 (5) A commission cochair may coordinate the evaluation of and response to federal law
14121 with another state as provided in Section 63C-4a-305.
- 14122 (6) The commission shall keep a current list on the Legislature's website of:
14123 (a) a federal law that the commission evaluates under Subsection (1);
14124 (b) an action taken by a cochair of the commission or the commission under Subsection
14125 (3);
14126 (c) any coordination undertaken with another state under Section 63C-4a-305; and
14127 (d) any response received from a federal government entity that was requested under
14128 Subsection (3).
- 14129 (7)(a) The commission shall develop curriculum for a seminar on the principles of
14130 federalism.
- 14131 (b) The curriculum under Subsection (7)(a) shall be available to the general public and
14132 include:
14133 (i) fundamental principles of federalism;
14134 (ii) the sovereignty, supremacy, and jurisdiction of the individual states, including
14135 their police powers;
14136 (iii) the history and practical implementation of the Tenth Amendment to the United
14137 States Constitution;
14138 (iv) the authority and limits on the authority of the federal government as found in the

- 14139 United States Constitution;
- 14140 (v) the relationship between the state and federal governments;
- 14141 (vi) methods of evaluating a federal law in the context of the principles of federalism;
- 14142 (vii) how and when challenges should be made to a federal law or regulation on the
- 14143 basis of federalism;
- 14144 (viii) the separate and independent powers of the state that serve as a check on the
- 14145 federal government;
- 14146 (ix) first amendment rights and freedoms contained therein; and
- 14147 (x) any other issues relating to federalism the commission considers necessary.
- 14148 (8) The commission may apply for and receive grants, and receive private donations to
- 14149 assist in funding the creation, enhancement, and dissemination of the curriculum.
- 14150 (9) The commission shall submit a report on or before November 30 of each year to the
- 14151 Government Operations Interim Committee and the Natural Resources, Agriculture, and
- 14152 Environment Interim Committee that:
- 14153 (a) describes any action taken by the commission under Section 63C-4a-303; and
- 14154 (b) includes any proposed legislation the commission recommends.
- 14155 (10) The commission shall comply with Section 19-1-110 in discussions with the
- 14156 Department of Environmental Quality on issues related to the environment or the
- 14157 functioning of the Department of Environmental Quality.
- 14158 (11) The commission shall:
- 14159 (a) coordinate with and make recommendations to the center concerning the center's
- 14160 federalism-related duties under Section ~~[53B-29-402]~~ 53H-4-703, including:
- 14161 (i) the development of the federalism education and training program under
- 14162 Subsection ~~[53B-29-402(1)]~~ 53H-4-703(1); and
- 14163 (ii) the scope and objectives of:
- 14164 (A) the annual federalism conference organized under Subsection ~~[53B-29-402(2)]~~
- 14165 53H-4-703(2);
- 14166 (B) the study conducted under Subsection ~~[53B-29-402(3)]~~ 53H-4-703(3); and
- 14167 (C) the center's coordination efforts under Subsection ~~[53B-29-402(4)]~~
- 14168 53H-4-703(4);
- 14169 (b) coordinate with and make recommendations to the institute regarding the institute's
- 14170 federalism-related duties under Section ~~[53B-29-403]~~ 53H-4-704; and
- 14171 (c) report annually to the Legislative Management Committee regarding:
- 14172 (i) the center's progress in fulfilling the requirements of Section ~~[53B-29-402]~~

- 14173 53H-4-703; and
- 14174 (ii) the institute's progress in fulfilling the requirements of Section [~~53B-29-403~~]
- 14175 53H-4-704.
- 14176 (12) Each executive branch agency shall, at the request of the commission, designate a
- 14177 contact person to coordinate with the commission regarding the federalism education
- 14178 and training program developed under Section [~~53B-29-402~~] 53H-4-703 for purposes of:
- 14179 (a) determining the extent of federal jurisdiction in the agency's resource sphere;
- 14180 (b) determining whether federal action exceeds the federal government's jurisdictional
- 14181 authority;
- 14182 (c) assessing what actions the agency may take in the event that federal action exceeds
- 14183 the federal government's jurisdictional authority; and
- 14184 (d) assessing how actions described in Subsection (12)(c) may better enable the agency
- 14185 to use the agency's best judgment in serving the people of Utah.

14186 Section 150. Section **63C-28-101** is amended to read:

14187 **63C-28-101 (Effective upon governor's approval) (Repealed 07/01/26).**

14188 **Definitions.**

14189 As used in this part:

- 14190 (1) "Commission" means the Ethnic Studies Commission created in Section 63C-28-201.
- 14191 (2) "Core standards for Utah public schools" or "core standards" means the standards the
- 14192 state board establishes as described in Section 53E-4-202.
- 14193 (3) "Education entity" means:
- 14194 (a) the Utah Board of Higher Education;
- 14195 (b) an institution of higher education, as that term is defined in Section [~~53B-3-102~~]
- 14196 53H-1-101;
- 14197 (c) the state board;
- 14198 (d) a local school board;
- 14199 (e) a charter school governing board;
- 14200 (f) a school district;
- 14201 (g) a district school;
- 14202 (h) a charter school; or
- 14203 (i) the Utah Schools for the Deaf and the Blind.
- 14204 (4) "Ethnic studies" means the same as that term is defined in Section 53E-4-204.1.
- 14205 (5) "State board" means the State Board of Education.
- 14206 (6) "Utahns of diverse ethnicities" means the same as that term is defined in Section

14207 53E-4-204.1.

14208 Section 151. Section **63G-2-103** is amended to read:

14209 **63G-2-103 (Effective upon governor's approval). Definitions.**

14210 As used in this chapter:

14211 (1) "Audit" means:

14212 (a) a systematic examination of financial, management, program, and related records for
14213 the purpose of determining the fair presentation of financial statements, adequacy of
14214 internal controls, or compliance with laws and regulations; or

14215 (b) a systematic examination of program procedures and operations for the purpose of
14216 determining their effectiveness, economy, efficiency, and compliance with statutes
14217 and regulations.

14218 (2) "Chief administrative officer" means the chief administrative officer of a governmental
14219 entity who is responsible to fulfill the duties described in Section 63A-12-103.

14220 (3) "Chronological logs" mean the regular and customary summary records of law
14221 enforcement agencies and other public safety agencies that show:

14222 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
14223 and

14224 (b) any arrests or jail bookings made by the agency.

14225 (4) "Classification," "classify," and their derivative forms mean determining whether a
14226 record series, record, or information within a record is public, private, controlled,
14227 protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

14228 (5)(a) "Computer program" means:

14229 (i) a series of instructions or statements that permit the functioning of a computer
14230 system in a manner designed to provide storage, retrieval, and manipulation of
14231 data from the computer system; and

14232 (ii) any associated documentation and source material that explain how to operate the
14233 computer program.

14234 (b) "Computer program" does not mean:

14235 (i) the original data, including numbers, text, voice, graphics, and images;

14236 (ii) analysis, compilation, and other manipulated forms of the original data produced
14237 by use of the program; or

14238 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
14239 algorithms contained in the program, that would be used if the manipulated forms
14240 of the original data were to be produced manually.

- 14241 (6)(a) "Contractor" means:
- 14242 (i) any person who contracts with a governmental entity to provide goods or services
- 14243 directly to a governmental entity; or
- 14244 (ii) any private, nonprofit organization that receives funds from a governmental entity.
- 14245 (b) "Contractor" does not mean a private provider.
- 14246 (7) "Controlled record" means a record containing data on individuals that is controlled as
- 14247 provided by Section 63G-2-304.
- 14248 (8) "Designation," "designate," and their derivative forms mean indicating, based on a
- 14249 governmental entity's familiarity with a record series or based on a governmental entity's
- 14250 review of a reasonable sample of a record series, the primary classification that a
- 14251 majority of records in a record series would be given if classified and the classification
- 14252 that other records typically present in the record series would be given if classified.
- 14253 (9) "Elected official" means each person elected to a state office, county office, municipal
- 14254 office, school board or school district office, special district office, or special service
- 14255 district office, but does not include judges.
- 14256 (10) "Explosive" means a chemical compound, device, or mixture:
- 14257 (a) commonly used or intended for the purpose of producing an explosion; and
- 14258 (b) that contains oxidizing or combustive units or other ingredients in proportions,
- 14259 quantities, or packing so that:
- 14260 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
- 14261 compound or mixture may cause a sudden generation of highly heated gases; and
- 14262 (ii) the resultant gaseous pressures are capable of:
- 14263 (A) producing destructive effects on contiguous objects; or
- 14264 (B) causing death or serious bodily injury.
- 14265 (11) "Government audit agency" means any governmental entity that conducts an audit.
- 14266 (12)(a) "Governmental entity" means:
- 14267 (i) executive department agencies of the state, the offices of the governor, lieutenant
- 14268 governor, state auditor, attorney general, and state treasurer, the Board of Pardons
- 14269 and Parole, the Board of Examiners, the National Guard, the Career Service
- 14270 Review Office, the State Board of Education, the Utah Board of Higher
- 14271 Education, and the State Archives;
- 14272 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
- 14273 Analyst, Office of Legislative Research and General Counsel, the Legislature, and
- 14274 legislative committees, except any political party, group, caucus, or rules or sifting

- 14275 committee of the Legislature;
- 14276 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
- 14277 administrative units in the judicial branch;
- 14278 (iv) any state-funded institution of higher education or public education; or
- 14279 (v) any political subdivision of the state, but, if a political subdivision has adopted an
- 14280 ordinance or a policy relating to information practices pursuant to Section
- 14281 63G-2-701, this chapter shall apply to the political subdivision to the extent
- 14282 specified in Section 63G-2-701 or as specified in any other section of this chapter
- 14283 that specifically refers to political subdivisions.
- 14284 (b) "Governmental entity" also means:
- 14285 (i) every office, agency, board, bureau, committee, department, advisory board, or
- 14286 commission of an entity listed in Subsection (12)(a) that is funded or established
- 14287 by the government to carry out the public's business;
- 14288 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
- 14289 undertaking, except for the Water District Water Development Council created
- 14290 pursuant to Section 11-13-228;
- 14291 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;
- 14292 (iv) an association as defined in Section 53G-7-1101;
- 14293 (v) the Utah Independent Redistricting Commission; and
- 14294 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or
- 14295 more law enforcement officers, as defined in Section 53-13-103.
- 14296 (c) "Governmental entity" does not include the Utah Educational Savings Plan created in
- 14297 Section ~~[53B-8a-103]~~ 53H-10-202.
- 14298 (13) "Government Records Office" means the same as that term is defined in Section
- 14299 63A-12-201.
- 14300 (14) "Gross compensation" means every form of remuneration payable for a given period to
- 14301 an individual for services provided including salaries, commissions, vacation pay,
- 14302 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and
- 14303 any similar benefit received from the individual's employer.
- 14304 (15) "Individual" means a human being.
- 14305 (16)(a) "Initial contact report" means an initial written or recorded report, however
- 14306 titled, prepared by peace officers engaged in public patrol or response duties
- 14307 describing official actions initially taken in response to either a public complaint
- 14308 about or the discovery of an apparent violation of law, which report may describe:

- 14309 (i) the date, time, location, and nature of the complaint, the incident, or offense;
14310 (ii) names of victims;
14311 (iii) the nature or general scope of the agency's initial actions taken in response to the
14312 incident;
14313 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
14314 (v) the name, address, and other identifying information about any person arrested or
14315 charged in connection with the incident; or
14316 (vi) the identity of the public safety personnel, except undercover personnel, or
14317 prosecuting attorney involved in responding to the initial incident.
- 14318 (b) Initial contact reports do not include follow-up or investigative reports prepared after
14319 the initial contact report. However, if the information specified in Subsection (16)(a)
14320 appears in follow-up or investigative reports, it may only be treated confidentially if
14321 it is private, controlled, protected, or exempt from disclosure under Subsection
14322 63G-2-201(3)(b).
- 14323 (c) Initial contact reports do not include accident reports, as that term is described in
14324 Title 41, Chapter 6a, Part 4, Accident Responsibilities.
- 14325 (17) "Legislative body" means the Legislature.
- 14326 (18) "Notice of compliance" means a statement confirming that a governmental entity has
14327 complied with an order of the director of the Government Records Office.
- 14328 (19) "Person" means:
- 14329 (a) an individual;
14330 (b) a nonprofit or profit corporation;
14331 (c) a partnership;
14332 (d) a sole proprietorship;
14333 (e) other type of business organization; or
14334 (f) any combination acting in concert with one another.
- 14335 (20) "Private provider" means any person who contracts with a governmental entity to
14336 provide services directly to the public.
- 14337 (21) "Private record" means a record containing data on individuals that is private as
14338 provided by Section 63G-2-302.
- 14339 (22) "Protected record" means a record that is classified protected as provided by Section
14340 63G-2-305.
- 14341 (23) "Public record" means a record that is not private, controlled, or protected and that is
14342 not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

14343 (24) "Reasonable search" means a search that is:

14344 (a) reasonable in scope and intensity; and

14345 (b) not unreasonably burdensome for the government entity.

14346 (25)(a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
14347 card, tape, recording, electronic data, or other documentary material regardless of
14348 physical form or characteristics:

14349 (i) that is prepared, owned, received, or retained by a governmental entity or political
14350 subdivision; and

14351 (ii) where all of the information in the original is reproducible by photocopy or other
14352 mechanical or electronic means.

14353 (b) "Record" does not include:

14354 (i) a personal note or personal communication prepared or received by an employee
14355 or officer of a governmental entity:

14356 (A) in a capacity other than the employee's or officer's governmental capacity; or

14357 (B) that is unrelated to the conduct of the public's business;

14358 (ii) a temporary draft or similar material prepared for the originator's personal use or
14359 prepared by the originator for the personal use of an individual for whom the
14360 originator is working;

14361 (iii) material that is legally owned by an individual in the individual's private capacity;

14362 (iv) material to which access is limited by the laws of copyright or patent unless the
14363 copyright or patent is owned by a governmental entity or political subdivision;

14364 (v) proprietary software;

14365 (vi) junk mail or a commercial publication received by a governmental entity or an
14366 official or employee of a governmental entity;

14367 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
14368 of a library open to the public;

14369 (viii) material that is cataloged, indexed, or inventoried and contained in the
14370 collections of a library open to the public, regardless of physical form or
14371 characteristics of the material;

14372 (ix) a daily calendar ;

14373 (x) a note prepared by the originator for the originator's own use or for the sole use of
14374 an individual for whom the originator is working;

14375 (xi) a computer program that is developed or purchased by or for any governmental
14376 entity for its own use;

- (xii) a note or internal memorandum prepared as part of the deliberative process by:
- (A) a member of the judiciary;
 - (B) an administrative law judge;
 - (C) a member of the Board of Pardons and Parole; or
 - (D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;
- (xiii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;
- (xiv) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);
- (xv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;
- (xvi) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;
- (xvii) child sexual abuse material, as defined by Section 76-5b-103;
- (xviii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:
- (A) a Senate or House Ethics Committee;
 - (B) the Independent Legislative Ethics Commission;
 - (C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or
 - (D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201;
- (xix) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702;
- (xx) any item described in Subsection (25)(a) that is:
- (A) described in Subsection 63G-2-305(17), (18), or (23)(b); and
 - (B) shared between any of the following entities:

- 14411 (I) the Division of Risk Management;
- 14412 (II) the Office of the Attorney General;
- 14413 (III) the governor's office; or
- 14414 (IV) the Legislature;
- 14415 (xxi) the email address that a candidate for elective office provides to a filing officer
- 14416 under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv); or
- 14417 (xxii) except as provided in Sections 31A-16-105, 31A-16-107.5, and 27a-3-303, an
- 14418 investment policy, or information related to an investment policy, provided to the
- 14419 insurance commissioner as described in Title 31A, Chapter 18, Investments.
- 14420 (26) "Record series" means a group of records that may be treated as a unit for purposes of
- 14421 designation, description, management, or disposition.
- 14422 (27) "Records officer" means the individual appointed by the chief administrative officer of
- 14423 each governmental entity, or the political subdivision to work with state archives in the
- 14424 care, maintenance, scheduling, designation, classification, disposal, and preservation of
- 14425 records.
- 14426 (28) "Schedule," "scheduling," and their derivative forms mean the process of specifying
- 14427 the length of time each record series should be retained by a governmental entity for
- 14428 administrative, legal, fiscal, or historical purposes and when each record series should be
- 14429 transferred to the state archives or destroyed.
- 14430 (29) "Sponsored research" means research, training, and other sponsored activities as
- 14431 defined by the federal Executive Office of the President, Office of Management and
- 14432 Budget:
- 14433 (a) conducted:
- 14434 (i) by an institution within the state system of higher education [~~defined~~] described in
- 14435 Section [~~53B-1-102~~] 53H-1-102; and
- 14436 (ii) through an office responsible for sponsored projects or programs; and
- 14437 (b) funded or otherwise supported by an external:
- 14438 (i) person that is not created or controlled by the institution within the state system of
- 14439 higher education; or
- 14440 (ii) federal, state, or local governmental entity.
- 14441 (30) "State archives" means the Division of Archives and Records Service created in
- 14442 Section 63A-12-101.
- 14443 (31) "State archivist" means the director of the state archives.
- 14444 (32) "Summary data" means statistical records and compilations that contain data derived

from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 152. Section **63G-2-301** is amended to read:

63G-2-301 (Effective upon governor's approval). Public records.

(1) As used in this section:

(a) "Business address" means a single address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(b) "Business email address" means a single email address of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(c) "Business telephone number" means a single telephone number of a governmental agency designated for the public to contact an employee or officer of the governmental agency.

(d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):

(a) laws;

(b) the name, gender, gross compensation, job title, job description, business address, business email address, business telephone number, number of hours worked per pay period, dates of employment, and relevant education, previous employment, and similar job qualifications of a current or former employee or officer of the governmental entity, excluding:

(i) undercover law enforcement personnel; and

(ii) investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

(c) final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is private, controlled, or protected;

(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);

(e) information contained in or compiled from a transcript, minutes, or report of the open

portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act, including the records of all votes of each member of the governmental entity;

- (f) judicial records unless a court orders the records to be restricted under the rules of civil or criminal procedure or unless the records are private under this chapter;
- (g) unless otherwise classified as private under Section 63G-2-303, records or parts of records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or other governmental entities that give public notice of:
 - (i) titles or encumbrances to real property;
 - (ii) restrictions on the use of real property;
 - (iii) the capacity of persons to take or convey title to real property; or
 - (iv) tax status for real and personal property;
- (h) records of the Department of Commerce that evidence incorporations, mergers, name changes, and uniform commercial code filings;
- (i) data on individuals that would otherwise be private under this chapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public;
- (j) documentation of the compensation that a governmental entity pays to a contractor or private provider;
- (k) summary data;
- (l) voter registration records, including an individual's voting history, except for a voter registration record or those parts of a voter registration record that are classified as private under Subsections 63G-2-302(1)(j) through (n) or withheld under Subsection 20A-2-104(7);
- (m) for an elected official, as defined in Section 11-47-102, a telephone number, if available, and email address, if available, where that elected official may be reached as required in Title 11, Chapter 47, Access to Elected Officials;
- (n) for a school community council member, a telephone number, if available, and email address, if available, where that elected official may be reached directly as required in Section 53G-7-1203;
- (o) annual audited financial statements of the Utah Educational Savings Plan described in Section ~~[53B-8a-HH]~~ 53H-10-210; and

- 14513 (p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as
14514 defined in Section 20A-7-101, after the packet is submitted to a county clerk.
- 14515 (3) The following records are normally public, but to the extent that a record is expressly
14516 exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),
14517 Section 63G-2-302, 63G-2-304, or 63G-2-305:
- 14518 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 14519 (b) records documenting a contractor's or private provider's compliance with the terms
14520 of a contract with a governmental entity;
- 14521 (c) records documenting the services provided by a contractor or a private provider to
14522 the extent the records would be public if prepared by the governmental entity;
- 14523 (d) contracts entered into by a governmental entity;
- 14524 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
14525 by a governmental entity;
- 14526 (f) records relating to government assistance or incentives publicly disclosed, contracted
14527 for, or given by a governmental entity, encouraging a person to expand or relocate a
14528 business in Utah, except as provided in Subsection 63G-2-305(35);
- 14529 (g) chronological logs and initial contact reports;
- 14530 (h) correspondence by and with a governmental entity in which the governmental entity
14531 determines or states an opinion upon the rights of the state, a political subdivision,
14532 the public, or any person;
- 14533 (i) empirical data contained in drafts if:
- 14534 (i) the empirical data is not reasonably available to the requester elsewhere in similar
14535 form; and
- 14536 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
14537 make nonsubstantive changes before release;
- 14538 (j) drafts that are circulated to anyone other than:
- 14539 (i) a governmental entity;
- 14540 (ii) a political subdivision;
- 14541 (iii) a federal agency if the governmental entity and the federal agency are jointly
14542 responsible for implementation of a program or project that has been legislatively
14543 approved;
- 14544 (iv) a government-managed corporation; or
- 14545 (v) a contractor or private provider;
- 14546 (k) drafts that have never been finalized but were relied upon by the governmental entity

- 14547 in carrying out action or policy;
- 14548 (l) original data in a computer program if the governmental entity chooses not to
- 14549 disclose the program;
- 14550 (m) arrest warrants after issuance, except that, for good cause, a court may order
- 14551 restricted access to arrest warrants prior to service;
- 14552 (n) search warrants after execution and filing of the return, except that a court, for good
- 14553 cause, may order restricted access to search warrants prior to trial;
- 14554 (o) records that would disclose information relating to formal charges or disciplinary
- 14555 actions against a past or present governmental entity employee if:
- 14556 (i) the disciplinary action has been completed and all time periods for administrative
- 14557 appeal have expired; and
- 14558 (ii) the charges on which the disciplinary action was based were sustained;
- 14559 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School and
- 14560 Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that
- 14561 evidence mineral production on government lands;
- 14562 (q) final audit reports;
- 14563 (r) occupational and professional licenses;
- 14564 (s) business licenses;
- 14565 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar
- 14566 records used to initiate proceedings for discipline or sanctions against persons
- 14567 regulated by a governmental entity, but not including records that initiate employee
- 14568 discipline; and
- 14569 (u)(i) records that disclose a standard, regulation, policy, guideline, or rule regarding
- 14570 the operation of a correctional facility or the care and control of inmates
- 14571 committed to the custody of a correctional facility; and
- 14572 (ii) records that disclose the results of an audit or other inspection assessing a
- 14573 correctional facility's compliance with a standard, regulation, policy, guideline, or
- 14574 rule described in Subsection (3)(u)(i).
- 14575 (4) The list of public records in this section is not exhaustive and should not be used to limit
- 14576 access to records.
- 14577 Section 153. Section **63G-2-305** is amended to read:
- 14578 **63G-2-305 (Effective upon governor's approval). Protected records.**
- 14579 The following records are protected if properly classified by a governmental entity:
- 14580 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has

provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not

14615 restrict the right of a person to have access to the information, after:

14616 (a) a contract directly relating to the subject of the request for information has been
14617 awarded and signed by all parties; or

14618 (b)(i) a final determination is made not to enter into a contract that relates to the
14619 subject of the request for information; and

14620 (ii) at least two years have passed after the day on which the request for information
14621 is issued;

14622 (8) records that would identify real property or the appraisal or estimated value of real or
14623 personal property, including intellectual property, under consideration for public
14624 acquisition before any rights to the property are acquired unless:

14625 (a) public interest in obtaining access to the information is greater than or equal to the
14626 governmental entity's need to acquire the property on the best terms possible;

14627 (b) the information has already been disclosed to persons not employed by or under a
14628 duty of confidentiality to the entity;

14629 (c) in the case of records that would identify property, potential sellers of the described
14630 property have already learned of the governmental entity's plans to acquire the
14631 property;

14632 (d) in the case of records that would identify the appraisal or estimated value of
14633 property, the potential sellers have already learned of the governmental entity's
14634 estimated value of the property; or

14635 (e) the property under consideration for public acquisition is a single family residence
14636 and the governmental entity seeking to acquire the property has initiated negotiations
14637 to acquire the property as required under Section 78B-6-505;

14638 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
14639 transaction of real or personal property including intellectual property, which, if
14640 disclosed prior to completion of the transaction, would reveal the appraisal or estimated
14641 value of the subject property, unless:

14642 (a) the public interest in access is greater than or equal to the interests in restricting
14643 access, including the governmental entity's interest in maximizing the financial
14644 benefit of the transaction; or

14645 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
14646 the value of the subject property have already been disclosed to persons not
14647 employed by or under a duty of confidentiality to the entity;

14648 (10) records created or maintained for civil, criminal, or administrative enforcement

purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

- (a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
- (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
- (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;
- (d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or
- (e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

- 14683 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
14684 employee, or agent of a governmental entity for, or in anticipation of, litigation or a
14685 judicial, quasi-judicial, or administrative proceeding;
- 14686 (19)(a)(i) personal files of a state legislator, including personal correspondence to or
14687 from a member of the Legislature; and
- 14688 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
14689 legislative action or policy may not be classified as protected under this section;
14690 and
- 14691 (b)(i) an internal communication that is part of the deliberative process in connection
14692 with the preparation of legislation between:
- 14693 (A) members of a legislative body;
14694 (B) a member of a legislative body and a member of the legislative body's staff; or
14695 (C) members of a legislative body's staff; and
- 14696 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
14697 legislative action or policy may not be classified as protected under this section;
- 14698 (20)(a) records in the custody or control of the Office of Legislative Research and
14699 General Counsel, that, if disclosed, would reveal a particular legislator's
14700 contemplated legislation or contemplated course of action before the legislator has
14701 elected to support the legislation or course of action, or made the legislation or course
14702 of action public; and
- 14703 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
14704 Office of Legislative Research and General Counsel is a public document unless a
14705 legislator asks that the records requesting the legislation be maintained as protected
14706 records until such time as the legislator elects to make the legislation or course of
14707 action public;
- 14708 (21) a research request from a legislator to a legislative staff member and research findings
14709 prepared in response to the request;
- 14710 (22) drafts, unless otherwise classified as public;
- 14711 (23) records concerning a governmental entity's strategy about:
- 14712 (a) collective bargaining; or
14713 (b) imminent or pending litigation;
- 14714 (24) records of investigations of loss occurrences and analyses of loss occurrences that may
14715 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
14716 Uninsured Employers' Fund, or similar divisions in other governmental entities;

- 14717 (25) records, other than personnel evaluations, that contain a personal recommendation
14718 concerning an individual if disclosure would constitute a clearly unwarranted invasion
14719 of personal privacy, or disclosure is not in the public interest;
- 14720 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
14721 resources that if known would jeopardize the security of those resources or of valuable
14722 historic, scientific, educational, or cultural information;
- 14723 (27) records of independent state agencies if the disclosure of the records would conflict
14724 with the fiduciary obligations of the agency;
- 14725 (28) records of an institution[~~within the state system~~] of higher education defined in
14726 Section [~~53B-1-102~~] 53H-1-101 regarding tenure evaluations, appointments, applications
14727 for admissions, retention decisions, and promotions, which could be properly discussed
14728 in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings
14729 Act, provided that records of the final decisions about tenure, appointments, retention,
14730 promotions, or those students admitted, may not be classified as protected under this
14731 section;
- 14732 (29) records of the governor's office, including budget recommendations, legislative
14733 proposals, and policy statements, that if disclosed would reveal the governor's
14734 contemplated policies or contemplated courses of action before the governor has
14735 implemented or rejected those policies or courses of action or made them public;
- 14736 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
14737 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
14738 recommendations in these areas;
- 14739 (31) records provided by the United States or by a government entity outside the state that
14740 are given to the governmental entity with a requirement that they be managed as
14741 protected records if the providing entity certifies that the record would not be subject to
14742 public disclosure if retained by it;
- 14743 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
14744 public body except as provided in Section 52-4-206;
- 14745 (33) records that would reveal the contents of settlement negotiations but not including final
14746 settlements or empirical data to the extent that they are not otherwise exempt from
14747 disclosure;
- 14748 (34) memoranda prepared by staff and used in the decision-making process by an
14749 administrative law judge, a member of the Board of Pardons and Parole, or a member of
14750 any other body charged by law with performing a quasi-judicial function;

- (35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;
- (36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;
- (37) the name of a donor or a prospective donor to a governmental entity, including an institution [~~within the state system~~] of higher education defined in Section [~~53B-1-102~~] 53H-1-101, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:
- (a) the donor requests anonymity in writing;
 - (b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and
 - (c) except for an institution [~~within the state system~~] of higher education defined in Section [~~53B-1-102~~] 53H-1-101, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;
- (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
- (39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;
- (40)[~~(a)~~] subject to Subsections (40)(g) and (40)(h), the following records of an institution [~~within the state system~~] of higher education defined in Section [~~53B-1-102~~] 53H-1-101, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:
- [~~(i)~~] (a) unpublished lecture notes;
 - [~~(ii)~~] (b) unpublished notes, data, and information:
 - [~~(A)~~] (i) relating to research; and
 - [~~(B)~~] (ii) of:
 - [~~(i)~~] (A) the institution [~~within the state system~~] of higher education defined in Section [~~53B-1-102~~] 53H-1-101; or

- 14785 [(H)] (B) a sponsor of sponsored research;
- 14786 [(iii)] (c) unpublished manuscripts;
- 14787 [(iv)] (d) creative works in process;
- 14788 [(v)] (e) scholarly correspondence; and
- 14789 [(vi)] (f) confidential information contained in research proposals;
- 14790 [(b)] (g) [~~Subsection (40)(a)-~~] this Subsection (40) may not be construed to prohibit
- 14791 disclosure of public information required pursuant to Subsection [~~53B-16-302(2)(a)~~
- 14792 or (b)] 53H-14-202(2)(a) or (b); and
- 14793 [(e)] (h) [~~Subsection (40)(a)-~~] this Subsection (40) may not be construed to affect the
- 14794 ownership of a record;
- 14795 (41)(a) records in the custody or control of the Office of the Legislative Auditor General
- 14796 that would reveal the name of a particular legislator who requests a legislative audit
- 14797 prior to the date that audit is completed and made public; and
- 14798 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 14799 Office of the Legislative Auditor General is a public document unless the legislator
- 14800 asks that the records in the custody or control of the Office of the Legislative Auditor
- 14801 General that would reveal the name of a particular legislator who requests a
- 14802 legislative audit be maintained as protected records until the audit is completed and
- 14803 made public;
- 14804 (42) records that provide detail as to the location of an explosive, including a map or other
- 14805 document that indicates the location of:
- 14806 (a) a production facility; or
- 14807 (b) a magazine;
- 14808 (43) information contained in the statewide database of the Division of Aging and Adult
- 14809 Services created by Section 26B-6-210;
- 14810 (44) information contained in the Licensing Information System described in Title 80,
- 14811 Chapter 2, Child Welfare Services;
- 14812 (45) information regarding National Guard operations or activities in support of the
- 14813 National Guard's federal mission;
- 14814 (46) records provided by any pawn or secondhand business to a law enforcement agency or
- 14815 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand
- 14816 Merchandise, and Catalytic Converter Transaction Information Act;
- 14817 (47) information regarding food security, risk, and vulnerability assessments performed by
- 14818 the Department of Agriculture and Food;

- (48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:
- (a) the safety of the general public; or
 - (b) the security of:
 - (i) governmental property;
 - (ii) governmental programs; or
 - (iii) the property of a private person who provides the Division of Emergency Management information;
- (49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;
- (50) as provided in Section 26B-2-709:
- (a) information or records held by the Department of Health and Human Services related to a complaint regarding a provider, program, or facility which the department is unable to substantiate; and
 - (b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a provider, program, or facility;
- (51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:
- (a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and
 - (b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:
 - (i) the nature of the law, ordinance, rule, or order; and
 - (ii) the individual complying with the law, ordinance, rule, or order;
- (52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:
- (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,

described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as ~~[defined]~~ described in Section ~~[53B-1-102]~~ 53H-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

- (b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;
- (c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;
- (d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or
- (e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;
- (60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;
- (61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);
- (62) a record described in Section 63G-12-210;
- (63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;
- (64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:
- (a) depict the commission of an alleged crime;
- (b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;
- (c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;
- (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f);

14921 or

14922 (e) have been requested for reclassification as a public record by a subject or authorized
14923 agent of a subject featured in the recording;

14924 (65) a record pertaining to the search process for a president of an institution of higher
14925 education described in Section [53B-2-102] 53H-3-302;

14926 (66) an audio recording that is:

14927 (a) produced by an audio recording device that is used in conjunction with a device or
14928 piece of equipment designed or intended for resuscitating an individual or for treating
14929 an individual with a life-threatening condition;

14930 (b) produced during an emergency event when an individual employed to provide law
14931 enforcement, fire protection, paramedic, emergency medical, or other first responder
14932 service:

14933 (i) is responding to an individual needing resuscitation or with a life-threatening
14934 condition; and

14935 (ii) uses a device or piece of equipment designed or intended for resuscitating an
14936 individual or for treating an individual with a life-threatening condition; and

14937 (c) intended and used for purposes of training emergency responders how to improve
14938 their response to an emergency situation;

14939 (67) records submitted by or prepared in relation to an applicant seeking a recommendation
14940 by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the
14941 Legislative Audit Subcommittee, established under Section 36-12-8, for an employment
14942 position with the Legislature;

14943 (68) work papers as defined in Section 31A-2-204;

14944 (69) a record made available to Adult Protective Services or a law enforcement agency
14945 under Section 61-1-206;

14946 (70) a record submitted to the Insurance Department in accordance with Section
14947 31A-37-201;

14948 (71) a record described in Section 31A-37-503;

14949 (72) any record created by the Division of Professional Licensing as a result of Subsection
14950 58-37f-304(5) or 58-37f-702(2)(a)(ii);

14951 (73) a record described in Section 72-16-306 that relates to the reporting of an injury
14952 involving an amusement ride;

14953 (74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a
14954 political petition, or on a request to withdraw a signature from a political petition,

including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(78) a record submitted to the Insurance Department under Section 31A-48-103;

(79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(80) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding;

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest; or

(d) the image is displayed to a person who is permitted to view the image under Section 17-22-30;

(81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

- (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and
- (c) the disclosure of which would:
- (i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;
 - (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or
 - (iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;
- (82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (82) may not be used to restrict access to a record evidencing a final contract or approval decision;
- (83) the following records of a drinking water or wastewater facility:
- (a) an engineering or architectural drawing of the drinking water or wastewater facility; and
 - (b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (83)(a);
- (84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:
- (a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and
 - (b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;
- (85) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401;
- (86) a record:

- 15023 (a) concerning a claim to the use of waters in the Great Salt Lake;
- 15024 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
- 15025 person concerning the claim, including a representative from another state or the
- 15026 federal government; and
- 15027 (c) the disclosure of which would:
- 15028 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
- 15029 Great Salt Lake;
- 15030 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms
- 15031 and conditions regarding the use of water in the Great Salt Lake; or
- 15032 (iii) give an advantage to another person including another state or to the federal
- 15033 government in negotiations regarding the use of water in the Great Salt Lake;
- 15034 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is
- 15035 reclassified as public as described in Subsection 13-2-11(4); and
- 15036 (88) a record of the Utah water agent, appointed under Section 73-10g-702:
- 15037 (a) concerning a claim to the use of waters;
- 15038 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
- 15039 representative from another state, a tribe, the federal government, or other
- 15040 government entity as provided in Title 73, Chapter 10g, Part [6] 7, Utah Water Agent;
- 15041 and
- 15042 (c) the disclosure of which would:
- 15043 (i) reveal a legal strategy relating to the state's claim to the use of the water;
- 15044 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions
- 15045 regarding the use of water; or
- 15046 (iii) give an advantage to another state, a tribe, the federal government, or other
- 15047 government entity in negotiations regarding the use of water; and
- 15048 (89) a record created or maintained for an investigation of the Prosecutor Conduct
- 15049 Commission, created in Section 63M-7-1102, that contains any personal identifying
- 15050 information of a prosecuting attorney, including:
- 15051 (a) a complaint, or a document that is submitted or created for a complaint, received by
- 15052 the Prosecutor Conduct Commission; or
- 15053 (b) a finding by the Prosecutor Conduct Commission.
- 15054 Section 154. Section **63G-2-309** is amended to read:
- 15055 **63G-2-309 (Effective upon governor's approval). Confidentiality claims.**
- 15056 (1)(a)(i) Any person who provides to a governmental entity a record that the person

believes should be protected under Subsection 63G-2-305(1) or (2) or both

Subsections 63G-2-305(1) and (2) shall provide with the record:

(A) a written claim of business confidentiality; and

(B) a concise statement of reasons supporting the claim of business confidentiality.

(ii) Any of the following who provides to an institution [~~within the state system~~] of

higher education defined in Section [~~53B-1-102~~] 53H-1-101 a record that the

person or governmental entity believes should be protected under Subsection

63G-2-305(40)(a)(ii) or (vi) or both Subsections 63G-2-305(40)(a)(ii) and (vi)

shall provide the institution within the state system of higher education a written

claim of business confidentiality in accordance with Section [~~53B-16-304~~]

53H-14-204:

(A) a person;

(B) a federal governmental entity;

(C) a state governmental entity; or

(D) a local governmental entity.

(b) A person or governmental entity who complies with this Subsection (1) shall be

notified by the governmental entity to whom the request for a record is made if:

(i) a record claimed to be protected under one of the following is classified public:

(A) Subsection 63G-2-305(1);

(B) Subsection 63G-2-305(2);

(C) Subsection 63G-2-305(40)(a)(ii);

(D) Subsection 63G-2-305(40)(a)(vi); or

(E) a combination of the provisions described in Subsections (1)(b)(i)(A) through

(D); or

(ii) the governmental entity to whom the request for a record is made determines that

the record claimed to be protected under a provision listed in Subsection (1)(b)(i)

should be released after balancing interests under Subsection 63G-2-201(5)(b) or

63G-2-401(6).

(c) A person who makes a claim of business confidentiality under this Subsection (1)

shall protect, defend, and indemnify the governmental entity that retains the record,

and all staff and employees of the governmental entity from and against any claims,

liability, or damages resulting from or arising from a denial of access to the record as

a protected record based on the claim of business confidentiality.

(2)(a) Except as provided in Subsection (2)(b) or by court order, the governmental entity

to whom the request for a record is made may not disclose a record claimed to be protected under a provision listed in Subsection (1)(b)(i) but which the governmental entity or the director of the Government Records Office determines should be disclosed until the period in which to bring an appeal expires or the end of the appeals process, including judicial appeal.

(b) Subsection (2)(a) does not apply where the claimant, after notice, has waived the claim by not appealing or intervening before the director of the Government Records Office.

- (3) Disclosure or acquisition of information under this chapter does not constitute misappropriation under Subsection 13-24-2(2).

Section 155. Section **63G-3-201** is amended to read:

63G-3-201 (Effective upon governor's approval). When rulemaking is required.

- (1) Each agency shall:
- (a) maintain a current version of its rules; and
 - (b) make it available to the public for inspection during its regular business hours.
- (2) In addition to other rulemaking required by law, each agency shall make rules when agency action:
- (a) authorizes, requires, or prohibits an action;
 - (b) provides or prohibits a material benefit;
 - (c) applies to a class of persons or another agency; and
 - (d) is explicitly or implicitly authorized by statute.
- (3) Rulemaking is also required when an agency issues a written interpretation of a state or federal legal mandate.
- (4) Rulemaking is not required when:
- (a) agency action applies only to internal agency management, inmates or residents of a state correctional, diagnostic, or detention facility, persons under state legal custody, patients admitted to a state hospital, members of the state retirement system, or~~[-]~~ , except as provided in ~~[Title 53B, Chapter 27, Part 3, Student Civil Liberties Protection Act]~~ Title 53H, Chapter 7, Part 3, Student Civil Liberties Protection, students enrolled in a state education institution;
 - (b) a standardized agency manual applies only to internal fiscal or administrative details of governmental entities supervised under statute;
 - (c) an agency issues policy or other statements that are advisory, informative, or descriptive, and do not conform to the requirements of Subsections (2) and (3); or

(d) an agency makes nonsubstantive changes in a rule, except that the agency shall file all nonsubstantive changes in a rule with the office.

(5)(a) A rule shall enumerate any penalty authorized by statute that may result from its violation, subject to Subsections (5)(b) and (c).

(b) A violation of a rule may not be subject to the criminal penalty of a class C misdemeanor or greater offense, except as provided under Subsection (5)(c).

(c) A violation of a rule may be subject to a class C misdemeanor or greater criminal penalty under Subsection (5)(a) when:

(i) authorized by a specific state statute;

(ii) a state law and programs under that law are established in order for the state to obtain or maintain primacy over a federal program; or

(iii) state civil or criminal penalties established by state statute regarding the program are equivalent to or less than corresponding federal civil or criminal penalties.

(6) Each agency shall enact rules incorporating the principles of law not already in its rules that are established by final adjudicative decisions within 120 days after the decision is announced in its cases.

(7)(a) Each agency may enact a rule that incorporates by reference:

(i) all or any part of another code, rule, or regulation that has been adopted by a federal agency, an agency or political subdivision of this state, an agency of another state, or by a nationally recognized organization or association;

(ii) state agency implementation plans mandated by the federal government for participation in the federal program;

(iii) lists, tables, illustrations, or similar materials that are subject to frequent change, fully described in the rule, and are available for public inspection; or

(iv) lists, tables, illustrations, or similar materials that the director determines are too expensive to reproduce in the administrative code.

(b) Rules incorporating materials by reference shall:

(i) be enacted according to the procedures outlined in this chapter;

(ii) state that the referenced material is incorporated by reference;

(iii) state the date, issue, or version of the material being incorporated; and

(iv) define specifically what material is incorporated by reference and identify any agency deviations from it.

(c) The agency shall identify any substantive changes in the material incorporated by reference by following the rulemaking procedures of this chapter.

(d) The agency shall maintain a complete and current copy of the referenced material available for public review at the agency and at the office.

(8)(a) This chapter is not intended to inhibit the exercise of agency discretion within the limits prescribed by statute or agency rule.

(b) An agency may enact a rule creating a justified exception to a rule.

(9) An agency may obtain assistance from the attorney general to ensure that its rules meet legal and constitutional requirements.

Section 156. Section **63G-6a-103** is amended to read:

63G-6a-103 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4)(a) "Award" means, in relation to a contract, a procurement unit's selection of a vendor to supply a procurement item after the procurement unit engages in:

(i) a standard procurement process; or

(ii) an exception to a standard procurement process under Part 8, Exceptions to Procurement Requirements.

(b) "Award" does not mean, in relation to a contract, a procurement unit's offer or acceptance of any terms or conditions related to the procurement unit's acquisition or receipt of the procurement item.

(5) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(6) "Bidding process" means the procurement process described in Part 6, Bidding.

(7) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

15193 (10) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

15194 (11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a
15195 procurement:

15196 (a) except:

15197 (i) reviewing a solicitation to verify that it is in proper form; and

15198 (ii) causing the publication of a notice of a solicitation; and

15199 (b) including:

15200 (i) preparing any solicitation document;

15201 (ii) appointing an evaluation committee;

15202 (iii) conducting the evaluation process, except the process relating to scores
15203 calculated for costs of proposals;

15204 (iv) selecting and recommending the person to be awarded a contract;

15205 (v) negotiating the terms and conditions of a contract, subject to the issuing
15206 procurement unit's approval; and

15207 (vi) contract administration.

15208 (12) "Conservation district" means the same as that term is defined in Section 17D-3-102.

15209 (13) "Construction project":

15210 (a) means a project for the construction, renovation, alteration, improvement, or repair of
15211 a public facility on real property, including all services, labor, supplies, and materials
15212 for the project; and

15213 (b) does not include services and supplies for the routine, day-to-day operation, repair,
15214 or maintenance of an existing public facility.

15215 (14) "Construction manager/general contractor":

15216 (a) means a contractor who enters into a contract:

15217 (i) for the management of a construction project; and

15218 (ii) that allows the contractor to subcontract for additional labor and materials that are
15219 not included in the contractor's cost proposal submitted at the time of the
15220 procurement of the contractor's services; and

15221 (b) does not include a contractor whose only subcontract work not included in the
15222 contractor's cost proposal submitted as part of the procurement of the contractor's
15223 services is to meet subcontracted portions of change orders approved within the
15224 scope of the project.

15225 (15) "Construction subcontractor":

15226 (a) means a person under contract with a contractor or another subcontractor to provide

15227 services or labor for the design or construction of a construction project;

15228 (b) includes a general contractor or specialty contractor licensed or exempt from
15229 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

15230 (c) does not include a supplier who provides only materials, equipment, or supplies to a
15231 contractor or subcontractor for a construction project.

15232 (16) "Contract" means an agreement for a procurement.

15233 (17) "Contract administration" means all functions, duties, and responsibilities associated
15234 with managing, overseeing, and carrying out a contract between a procurement unit and
15235 a contractor, including:

15236 (a) implementing the contract;

15237 (b) ensuring compliance with the contract terms and conditions by the conducting
15238 procurement unit and the contractor;

15239 (c) executing change orders;

15240 (d) processing contract amendments;

15241 (e) resolving, to the extent practicable, contract disputes;

15242 (f) curing contract errors and deficiencies;

15243 (g) terminating a contract;

15244 (h) measuring or evaluating completed work and contractor performance;

15245 (i) computing payments under the contract; and

15246 (j) closing out a contract.

15247 (18) "Contractor" means a person who is awarded a contract with a procurement unit.

15248 (19) "Cooperative procurement" means procurement conducted by, or on behalf of:

15249 (a) more than one procurement unit; or

15250 (b) a procurement unit and a cooperative purchasing organization.

15251 (20) "Cooperative purchasing organization" means an organization, association, or alliance
15252 of purchasers established to combine purchasing power in order to obtain the best value
15253 for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

15254 (21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor
15255 is paid a percentage of the total actual expenses or costs in addition to the contractor's
15256 actual expenses or costs.

15257 (22) "Cost-reimbursement contract" means a contract under which a contractor is
15258 reimbursed for costs which are allowed and allocated in accordance with the contract
15259 terms and the provisions of this chapter, and a fee, if any.

15260 (23) "Days" means calendar days, unless expressly provided otherwise.

- 15261 (24) "Definite quantity contract" means a fixed price contract that provides for a specified
15262 amount of supplies over a specified period, with deliveries scheduled according to a
15263 specified schedule.
- 15264 (25) "Design professional" means:
- 15265 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects
15266 Licensing Act;
- 15267 (b) an individual licensed as a professional engineer or professional land surveyor under
15268 Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors
15269 Licensing Act;
- 15270 (c) an individual licensed under Title 58, Chapter 53, Landscape Architects Licensing
15271 Act, to engage in the practice of landscape architecture, as defined in Section
15272 58-53-102; or
- 15273 (d) an individual certified as a commercial interior designer under Title 58, Chapter 86,
15274 State Certification of Commercial Interior Designers Act.
- 15275 (26) "Design professional procurement process" means the procurement process described
15276 in Part 15, Design Professional Services.
- 15277 (27) "Design professional services" means:
- 15278 (a) professional services within the scope of the practice of architecture as defined in
15279 Section 58-3a-102;
- 15280 (b) professional engineering as defined in Section 58-22-102;
- 15281 (c) master planning and programming services;
- 15282 (d) professional services within the scope of the practice of landscape architecture, as
15283 defined in Section 58-53-102; or
- 15284 (e) services within the scope of the practice of commercial interior design, as defined in
15285 Section 58-86-102.
- 15286 (28) "Design-build" means the procurement of design professional services and
15287 construction by the use of a single contract.
- 15288 (29) "Division" means the Division of Purchasing and General Services, created in Section
15289 63A-2-101.
- 15290 (30) "Educational procurement unit" means:
- 15291 (a) a school district;
- 15292 (b) a public school, including a local school board or a charter school;
- 15293 (c) the Utah Schools for the Deaf and the Blind;
- 15294 (d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section [53B-1-102] 53H-1-102; or

(f) the State Board of Education.

(31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(32)(a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(37) "Human services procurement item" means a procurement item used to provide services or support to a child, youth, adult, or family.

(38) "Immaterial error":

(a) means an irregularity or abnormality that is:

- (i) a matter of form that does not affect substance; or
- (ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

- (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;
- (ii) a typographical error;
- (iii) an error resulting from an inaccuracy or omission in the solicitation; and
- (iv) any other error that the procurement official reasonably considers to be immaterial.

(39) "Indefinite quantity contract" means a fixed price contract that:

- (a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and
- (b)(i) does not require a minimum purchase amount; or
- (ii) provides a maximum purchase limit.

(40) "Independent procurement unit" means:

- (a)(i) a legislative procurement unit;
- (ii) a judicial branch procurement unit;
- (iii) an educational procurement unit;
- (iv) a local governmental procurement unit;
- (v) a conservation district;
- (vi) a local building authority;
- (vii) a special district;
- (viii) a public corporation;
- (ix) a special service district; or
- (x) the Utah Communications Authority, established in Section 63H-7a-201;
- (b) the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;
- (c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;
- (d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code;
- (e) the Department of Health and Human Services, but only for the procurement of a

human services procurement item; or

- (f) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(41)(a) "Interlocal entity" means a separate political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

- (b) "Interlocal entity" does not include a project entity.

(42) "Invitation for bids":

- (a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

- (b) includes all documents attached to or incorporated by reference in a document described in Subsection (42)(a).

(43) "Issuing procurement unit" means a procurement unit that:

- (a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(44) "Judicial procurement unit" means:

- (a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(45) "Labor hour contract" is a contract under which:

- (a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(46) "Legislative procurement unit" means:

- (a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii)(A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(47) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(48) "Local government procurement unit" means:

(a) a county, municipality, interlocal entity, or project entity, and each office of the county, municipality, interlocal entity, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance;

(ii) the interlocal entity adopts procurement rules or policies as provided in Subsection 11-13-226(2); or

(iii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b)(i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-316; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

(49) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(50) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(51) "Municipality" means a city or town.

(52) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (52)(a).

(53) "Offeror" means a person who submits a proposal in response to a request for proposals.

(54) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(55) "Procure" means to acquire a procurement item through a procurement.

(56) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(57) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(58) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a special district, the board of trustees of the special district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter

15465 school or the designee of the individual or body;

15466 (l) for an institution of higher education described in Section ~~[53B-2-101]~~ 53H-1-102, the
15467 president of the institution of higher education or the president's designee;

15468 (m) for the State Board of Education, the State Board of Education or the State Board of
15469 Education's designee;

15470 (n) for the Utah Board of Higher Education, the Commissioner of Higher Education or
15471 the designee of the Commissioner of Higher Education;

15472 (o) for the Utah Communications Authority, established in Section 63H-7a-201, the
15473 executive director of the Utah Communications Authority or the executive director's
15474 designee; or

15475 (p)(i) for the facilities division, and only to the extent of procurement activities of the
15476 facilities division as an independent procurement unit under the procurement
15477 authority provided under Title 63A, Chapter 5b, Administration of State Facilities,
15478 the director of the facilities division or the director's designee;

15479 (ii) for the attorney general, and only to the extent of procurement activities of the
15480 attorney general as an independent procurement unit under the procurement
15481 authority provided under Title 67, Chapter 5, Attorney General, the attorney
15482 general or the attorney general's designee;

15483 (iii) for the Department of Transportation created in Section 72-1-201, and only to
15484 the extent of procurement activities of the Department of Transportation as an
15485 independent procurement unit under the procurement authority provided under
15486 Title 72, Transportation Code, the executive director of the Department of
15487 Transportation or the executive director's designee;

15488 (iv) for the Department of Health and Human Services, and only to the extent of the
15489 procurement activities of the Department of Health and Human Services as an
15490 independent procurement unit, the executive director of the Department of Health
15491 and Human Services or the executive director's designee; or

15492 (v) for any other executive branch department, division, office, or entity that has
15493 statutory procurement authority outside this chapter, and only to the extent of the
15494 procurement activities of the department, division, office, or entity as an
15495 independent procurement unit under the procurement authority provided outside
15496 this chapter for the department, division, office, or entity, the chief executive
15497 officer of the department, division, office, or entity or the chief executive officer's
15498 designee.

(59) "Procurement unit" means:

- (a) a legislative procurement unit;
- (b) an executive branch procurement unit;
- (c) a judicial procurement unit;
- (d) an educational procurement unit;
- (e) the Utah Communications Authority, established in Section 63H-7a-201;
- (f) a local government procurement unit;
- (g) a special district;
- (h) a special service district;
- (i) a local building authority;
- (j) a conservation district; or
- (k) a public corporation.

(60) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

- (a) accounting;
- (b) administrative law judge service;
- (c) architecture;
- (d) construction design and management;
- (e) engineering;
- (f) financial services;
- (g) information technology;
- (h) the law;
- (i) medicine;
- (j) psychiatry; or
- (k) underwriting.

(61) "Project entity" means the same as that term is defined in Section 11-13-103.

(62) "Protest officer" means:

- (a) for the division or an independent procurement unit:
 - (i) the procurement official;
 - (ii) the procurement official's designee who is an employee of the procurement unit;or
- (iii) a person designated by rule made by the rulemaking authority; or
- (b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee

of the division .

(63) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(64) "Public entity" means the state or any other governmental entity within the state that expends public funds.

(65) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(66) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(67) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(68) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(69) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(70) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(71) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(72) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(73) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(74) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(75) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(76) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(77) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(78) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(79) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c)(i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the facilities division, the facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation;

(D) for the Department of Health and Human Services, the executive director of the Department of Health and Human Services; and

(E) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

- (e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;
 - (f) for [a-state] an institution of higher education, the Utah Board of Higher Education;
 - (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;
 - (h) for a public transit district, the chief executive of the public transit district;
 - (i) for a special district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the special district or the governing body of the special service district makes its own rules:
 - (i) with respect to a subject addressed by board rules; or
 - (ii) that are in addition to board rules;
 - (j) for the Utah Educational Savings Plan, created in Section [~~53B-8a-103~~] 53H-10-202, the Utah Board of Higher Education;
 - (k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;
 - (l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;
 - (m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or
 - (n) for any other procurement unit, the board.
- (80) "Service":
- (a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;
 - (b) includes a professional service; and
 - (c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.
- (81) "Small purchase process" means the procurement process described in Section 63G-6a-506.
- (82) "Sole source contract" means a contract resulting from a sole source procurement.
- (83) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.
- (84) "Solicitation" means an invitation for bids, request for proposals, or request for

statement of qualifications.

(85) "Solicitation response" means:

- (a) a bid submitted in response to an invitation for bids;
- (b) a proposal submitted in response to a request for proposals; or
- (c) a statement of qualifications submitted in response to a request for statement of qualifications.

(86) "Special district" means the same as that term is defined in Section 17B-1-102.

(87) "Special service district" means the same as that term is defined in Section 17D-1-102.

(88) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

- (a) a requirement for inspecting or testing a procurement item; or
- (b) preparing a procurement item for delivery.

(89) "Standard procurement process" means:

- (a) the bidding process;
- (b) the request for proposals process;
- (c) the approved vendor list process;
- (d) the small purchase process; or
- (e) the design professional procurement process.

(90) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(91) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(92) "Subcontractor":

- (a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and
- (b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(93) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

(94) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in

price.

(95) "Time and materials contract" means a contract under which the contractor is paid:

- (a) the actual cost of direct labor at specified hourly rates;
- (b) the actual cost of materials and equipment usage; and
- (c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(96) "Transitional costs":

- (a) means the costs of changing:
 - (i) from an existing provider of a procurement item to another provider of that procurement item; or
 - (ii) from an existing type of procurement item to another type;
- (b) includes:
 - (i) training costs;
 - (ii) conversion costs;
 - (iii) compatibility costs;
 - (iv) costs associated with system downtime;
 - (v) disruption of service costs;
 - (vi) staff time necessary to implement the change;
 - (vii) installation costs; and
 - (viii) ancillary software, hardware, equipment, or construction costs; and
- (c) does not include:
 - (i) the costs of preparing for or engaging in a procurement process; or
 - (ii) contract negotiation or drafting costs.

(97) "Vendor":

- (a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and
- (b) includes:
 - (i) a bidder;
 - (ii) an offeror;
 - (iii) an approved vendor;
 - (iv) a design professional; and
 - (v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 157. Section **63G-6a-1303** is amended to read:

63G-6a-1303 (Effective upon governor's approval). Drug and alcohol testing

15703 **required for state construction contracts.**

15704 (1) As used in this section:

15705 (a) "Contractor" means a person who is or may be awarded a state construction contract.

15706 (b) "Covered individual" means an individual who:

15707 (i) on behalf of a contractor or subcontractor provides services directly related to
15708 design or construction under a state construction contract; and

15709 (ii) is in a safety sensitive position, including a design position that has
15710 responsibilities that directly affect the safety of an improvement to real property
15711 that is the subject of a state construction contract.

15712 (c) "Drug and alcohol testing policy" means a policy under which a contractor or
15713 subcontractor tests a covered individual to establish, maintain, or enforce the
15714 prohibition of:

15715 (i) the manufacture, distribution, dispensing, possession, or use of drugs or alcohol,
15716 except the medically prescribed possession and use of a drug; or

15717 (ii) the impairment of judgment or physical abilities due to the use of drugs or alcohol.

15718 (d) "Random testing" means that a covered individual is subject to periodic testing for
15719 drugs and alcohol:

15720 (i) in accordance with a drug and alcohol testing policy; and

15721 (ii) on the basis of a random selection process.

15722 (e) "State executive entity" means:

15723 (i) a state executive branch:

15724 (A) department;

15725 (B) division;

15726 (C) agency;

15727 (D) board;

15728 (E) commission;

15729 (F) council;

15730 (G) committee; or

15731 (H) institution; or

15732 (ii) [a-state] an institution of higher education, as defined in Section [53B-3-102]

15733 53H-1-101.

15734 (f) "State construction contract" means a contract for design or construction entered into
15735 by a state executive entity.

15736 (2) Except as provided in Subsection (7), a state executive entity may not enter into a state

construction contract unless the public construction contract requires that the contractor demonstrate to the state executive entity that the contractor:

- (a) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the contractor;
- (b) posts in one or more conspicuous places notice to covered individuals hired by the contractor that the contractor has the drug and alcohol testing policy described in Subsection (2)(a);
- (c) subjects the covered individuals to random testing under the drug and alcohol testing policy described in Subsection (2)(a) if at any time during the period of the state construction contract there are 10 or more individuals who are covered individuals hired by the contractor; and
- (d) requires that as a condition of contracting with the contractor, a subcontractor:
 - (i) has and will maintain a drug and alcohol testing policy during the period of the state construction contract that applies to the covered individuals hired by the subcontractor;
 - (ii) posts in one or more conspicuous places notice to covered individuals hired by the subcontractor that the subcontractor has the drug and alcohol testing policy described in Subsection (2)(d)(i); and
 - (iii) subjects the covered individuals hired by the subcontractor to random testing under the drug and alcohol testing policy described in Subsection (2)(d)(i) if at any time during the period of the state construction contract there are 10 or more individuals who are covered individuals hired by the subcontractor.

(3)(a) Except as otherwise provided in this Subsection (3), if a contractor or subcontractor fails to comply with Subsection (2), the contractor or subcontractor may be suspended or debarred in accordance with this chapter.

- (b) A state executive entity shall include in a state construction contract:
 - (i) a reference to the rules described in Subsection (4)(b); or
 - (ii) if the rulemaking authority has not made the rules described in Subsection (4)(b), a process that provides a contractor or subcontractor reasonable notice and opportunity to cure a violation of this section before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation.
- (c)(i) A contractor is not subject to penalties for the failure of a subcontractor to comply with Subsection (2).

(ii) A subcontractor is not subject to penalties for the failure of a contractor to comply with Subsection (2).

(4) A rulemaking authority:

(a) may make rules that establish the requirements and procedures a contractor is required to follow to comply with Subsection (2); and

(b) shall make rules that establish:

(i) the penalties that may be imposed in accordance with Subsection (3); and

(ii) a process that provides a contractor or subcontractor reasonable notice and opportunity to cure a violation of this section before suspension or debarment of the contractor or subcontractor in light of the circumstances of the state construction contract or the violation.

(5) The failure of a contractor or subcontractor to meet the requirements of Subsection (2):

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under Part 17, Procurement Appeals Board, or Part 18, Appeals to Court and Court Proceedings; and

(b) may not be used by a state executive entity, a prospective bidder, an offeror, a contractor, or a subcontractor as a basis for an action that would suspend, disrupt, or terminate the design or construction under a state construction contract.

(6)(a) After a state executive entity enters into a state construction contract in compliance with this section, the state is not required to audit, monitor, or take any other action to ensure compliance with this section.

(b) The state is not liable in any action related to this section, including not being liable in relation to:

(i) a contractor or subcontractor having or not having a drug and alcohol testing policy;

(ii) failure to test for a drug or alcohol under a contractor's or subcontractor's drug and alcohol testing policy;

(iii) the requirements of a contractor's or subcontractor's drug and alcohol testing policy;

(iv) a contractor's or subcontractor's implementation of a drug and alcohol testing policy, including procedures for:

(A) collection of a sample;

(B) testing of a sample;

(C) evaluation of a test; or

- (D) disciplinary or rehabilitative action on the basis of a test result;
- (v) an individual being under the influence of drugs or alcohol; or
- (vi) an individual under the influence of drugs or alcohol harming another person or causing property damage.

- (7) This section does not apply if the state executive entity determines that the application of this section would severely disrupt the operation of a procurement unit to the detriment of the procurement unit or the general public, including:
- (a) jeopardizing the receipt of federal funds;
 - (b) causing the state construction contract to be a sole source contract; or
 - (c) causing the state construction contract to be an emergency procurement.
- (8) If a contractor or subcontractor meets the requirements of this section, this section may not be construed to restrict the contractor's or subcontractor's ability to impose or implement an otherwise lawful provision as part of a drug and alcohol testing policy.

Section 158. Section **63G-7-102** is amended to read:

63G-7-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

- (1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:
- (a) there is some causal relationship between the conduct or condition and the injury;
 - (b) the causal relationship is more than any causal connection but less than proximate cause; and
 - (c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.
- (2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.
- (3)(a) "Employee" includes:
- (i) a governmental entity's officers, employees, servants, trustees, or commissioners;
 - (ii) a member of a governing body;
 - (iii) a member of a government entity board;
 - (iv) a member of a government entity commission;
 - (v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-102;

- 15839 (vi) a student holding a license issued by the State Board of Education;
15840 (vii) an educational aide;
15841 (viii) a student engaged in an internship under Section ~~[53B-16-402]~~ 53H-3-1002 or
15842 53G-7-902;
15843 (ix) a volunteer, as defined in Section 67-20-2; and
15844 (x) a tutor.

15845 (b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or
15846 not the individual holding that position receives compensation.

15847 (c) "Employee" does not include an independent contractor.

15848 (4) "Governmental entity" means:

15849 (a) the state and its political subdivisions; and

15850 (b) a law enforcement agency, as defined in Section 53-1-102, that employs one or more
15851 law enforcement officers, as defined in Section 53-13-103.

15852 (5)(a) "Governmental function" means each activity, undertaking, or operation of a
15853 governmental entity.

15854 (b) "Governmental function" includes each activity, undertaking, or operation performed
15855 by a department, agency, employee, agent, or officer of a governmental entity.

15856 (c) "Governmental function" includes a governmental entity's failure to act.

15857 (6) "Injury" means death, injury to a person, damage to or loss of property, or any other
15858 injury that a person may suffer to the person or estate, that would be actionable if
15859 inflicted by a private person or the private person's agent.

15860 (7) "Personal injury" means an injury of any kind other than property damage.

15861 (8) "Political subdivision" means any county, city, town, school district, community
15862 reinvestment agency, special improvement or taxing district, special district, special
15863 service district, an entity created by an interlocal agreement adopted under Title 11,
15864 Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public
15865 corporation.

15866 (9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real
15867 or personal property.

15868 (10) "State" means the state of Utah, and includes each office, department, division, agency,
15869 authority, commission, board, institution, hospital, college, university, Children's Justice
15870 Center, or other instrumentality of the state.

15871 (11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful
15872 failure to act, without just cause or excuse, where the actor is aware that the actor's

conduct will probably result in injury.

Section 159. Section **63G-7-301** is amended to read:

63G-7-301 (Effective upon governor's approval). Waivers of immunity.

- (1)(a) Immunity from suit of each governmental entity is waived as to any contractual obligation.
- (b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.
- (c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.
- (2) Immunity from suit of each governmental entity is waived:
- (a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;
- (b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;
- (c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;
- (d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;
- (e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;
- (f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;
- (g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

- 15907 (h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:
- 15908 (i) a defective, unsafe, or dangerous condition of any highway, road, street, alley,
- 15909 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on
- 15910 them; or
- 15911 (ii) any defective or dangerous condition of a public building, structure, dam,
- 15912 reservoir, or other public improvement;
- 15913 (i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately
- 15914 caused by a negligent act or omission of an employee committed within the scope of
- 15915 employment;
- 15916 (j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a
- 15917 sexual battery, as provided in Section 76-5-418, committed:
- 15918 (i) against a student of a public elementary or secondary school, including a charter
- 15919 school; and
- 15920 (ii) by an employee of a public elementary or secondary school or charter school who:
- 15921 (A) at the time of the sexual battery, held a position of special trust, as defined in
- 15922 Section 76-5-404.1, with respect to the student;
- 15923 (B) is criminally charged in connection with the sexual battery; and
- 15924 (C) the public elementary or secondary school or charter school knew or in the
- 15925 exercise of reasonable care should have known, at the time of the employee's
- 15926 hiring, to be a sex offender, a kidnap offender, or a child abuse offender as
- 15927 described in Section 53-29-202, required to register under Title 53, Chapter 29,
- 15928 Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex
- 15929 offender, kidnap offender, or child abuse offender would have been revealed in
- 15930 a background check under Section 53G-11-402;
- 15931 (k) as to any action brought under Section 78B-6-2303;
- 15932 (l) as to any action brought to obtain relief under [~~Title 53B, Chapter 27, Part 6~~] Title
- 15933 53H, Chapter 7, Part 7, Student Legal Representation; and
- 15934 (m) as to any action brought under Section 53-30-301.
- 15935 (3)(a) As used in this Subsection (3):
- 15936 (i) "Code of conduct" means a code of conduct that:
- 15937 (A) is not less stringent than a model code of conduct, created by the State Board
- 15938 of Education, establishing a professional standard of care for preventing the
- 15939 conduct described in Subsection (3)(a)(i)(D);
- 15940 (B) is adopted by the applicable local education governing body;

- 15941 (C) regulates behavior of a school employee toward a student; and
- 15942 (D) includes a prohibition against any sexual conduct between an employee and a
- 15943 student and against the employee and student sharing any sexually explicit or
- 15944 lewd communication, image, or photograph.
- 15945 (ii) "Local education agency" means:
- 15946 (A) a school district;
- 15947 (B) a charter school; or
- 15948 (C) the Utah Schools for the Deaf and the Blind.
- 15949 (iii) "Local education governing board" means:
- 15950 (A) for a school district, the local school board;
- 15951 (B) for a charter school, the charter school governing board; or
- 15952 (C) for the Utah Schools for the Deaf and the Blind, the state board.
- 15953 (iv) "Public school" means a public elementary or secondary school.
- 15954 (v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).
- 15955 (vi) "Sexual battery" means the offense described in Section 76-5-418, considering
- 15956 the term "child" in that section to include an individual under 18 years old.
- 15957 (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a
- 15958 claim against a local education agency for an injury resulting from a sexual battery or
- 15959 sexual abuse committed against a student of a public school by a paid employee of
- 15960 the public school who is criminally charged in connection with the sexual battery or
- 15961 sexual abuse, unless:
- 15962 (i) at the time of the sexual battery or sexual abuse, the public school was subject to a
- 15963 code of conduct; and
- 15964 (ii) before the sexual battery or sexual abuse occurred, the public school had:
- 15965 (A) provided training on the code of conduct to the employee; and
- 15966 (B) required the employee to sign a statement acknowledging that the employee
- 15967 has read and understands the code of conduct.
- 15968 (4)(a) As used in this Subsection (4):
- 15969 (i) [~~"Higher education institution" means an institution included within the state~~
- 15970 ~~system of higher education under Section 53B-1-102]~~ "Institution of higher
- 15971 education" means the same as that term is defined in Section 53H-1-101.
- 15972 (ii) "Policy governing behavior" means a policy adopted by a higher education
- 15973 institution or the Utah Board of Higher Education that:
- 15974 (A) establishes a professional standard of care for preventing the conduct

- described in Subsections (4)(a)(ii)(C) and (D);
- (B) regulates behavior of a special trust employee toward a subordinate student;
- (C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and
- (D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.
- (iii) "Sexual battery" means the offense described in Section 76-5-418.
- (iv) "Special trust employee" means an employee of [~~a higher education institution~~] an institution of higher education who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.
- (v) "Subordinate student" means a student:
- (A) of [~~a higher education institution~~] an institution of higher education; and
- (B) whose educational opportunities could be adversely impacted by a special trust employee.
- (b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:
- (i) the institution of higher education proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:
- (A) with a subordinate student who was at least 18 years old at the time of the behavior; and
- (B) with the student's consent; or
- (ii)(A) at the time of the sexual battery, the [~~higher education~~] institution of higher education was subject to a policy governing behavior; and
- (B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 160. Section **63G-12-102** is amended to read:

63G-12-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

- (1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.
- (2) "Department" means the Department of Public Safety created in Section 53-1-103.
- (3) "Employee" means an individual employed by an employer under a contract for hire.
- (4) "Employer" means a person who has one or more employees employed in the same

business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(5) "E-verify program" means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program.

(6) "Family member" means for an undocumented individual:

(a) a member of the undocumented individual's immediate family;

(b) the undocumented individual's grandparent;

(c) the undocumented individual's sibling;

(d) the undocumented individual's grandchild;

(e) the undocumented individual's nephew;

(f) the undocumented individual's niece;

(g) a spouse of an individual described in this Subsection (6); or

(h) an individual who is similar to one listed in this Subsection (6).

(7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.

(8) "Guest worker" means an undocumented individual who holds a guest worker permit.

(9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.

(10) "Immediate family" means for an undocumented individual:

(a) the undocumented individual's spouse; or

(b) a child of the undocumented individual if the child is:

(i) under 21 years old; and

(ii) unmarried.

(11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.

(12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:

(a) a guest worker permit; and

(b) an immediate family permit.

(13) "Permit holder" means an undocumented individual who holds a permit.

(14) "Private employer" means an employer who is not the federal government or a public employer.

- 16043 (15) "Program" means the Guest Worker Program described in Section 63G-12-201.
- 16044 (16) "Program start date" means the day on which the department is required to implement
- 16045 the program under Subsection 63G-12-202(3).
- 16046 (17) "Public employer" means an employer that is:
- 16047 (a) the state of Utah or any administrative subunit of the state;
- 16048 (b) ~~[a-state]~~ an institution of higher education, as defined in Section ~~[53B-3-102]~~ 53H-1-1
- 16049 01;
- 16050 (c) a political subdivision of the state including a county, city, town, school district,
- 16051 special district, or special service district; or
- 16052 (d) an administrative subunit of a political subdivision.
- 16053 (18) "Relevant contact information" means the following for an undocumented individual:
- 16054 (a) the undocumented individual's name;
- 16055 (b) the undocumented individual's residential address;
- 16056 (c) the undocumented individual's residential telephone number;
- 16057 (d) the undocumented individual's personal email address;
- 16058 (e) the name of the person with whom the undocumented individual has a contract for
- 16059 hire;
- 16060 (f) the name of the contact person for the person listed in Subsection (18)(e);
- 16061 (g) the address of the person listed in Subsection (18)(e);
- 16062 (h) the telephone number for the person listed in Subsection (18)(e);
- 16063 (i) the names of the undocumented individual's immediate family members;
- 16064 (j) the names of the family members who reside with the undocumented individual; and
- 16065 (k) any other information required by the department by rule made in accordance with
- 16066 Chapter 3, Utah Administrative Rulemaking Act.
- 16067 (19) "Restricted account" means the Immigration Act Restricted Account created in Section
- 16068 63G-12-103.
- 16069 (20) "Serious felony" means a felony under:
- 16070 (a) Section 53-5a-304;
- 16071 (b) Title 76, Chapter 5, Offenses Against the Individual;
- 16072 (c) Title 76, Chapter 5b, Sexual Exploitation Act;
- 16073 (d) Title 76, Chapter 5c, Pornographic and Harmful Materials and Performances;
- 16074 (e) Title 76, Chapter 5d, Prostitution;
- 16075 (f) Title 76, Chapter 6, Offenses Against Property;
- 16076 (g) Title 76, Chapter 7, Offenses Against the Family;

- (h) Title 76, Chapter 8, Offenses Against the Administration of Government;
- (i) Title 76, Chapter 9, Offenses Against Public Order, Health, and Safety;
- (j) Title 76, Chapter 11, Weapons;
- (k) Title 76, Chapter 12, Offenses Related to Privacy, Information, and Communication;
- (l) Title 76, Chapter 13, Offenses Involving Cruelty to Animals;
- (m) Title 76, Chapter 14, Offenses Related to Immigration Status;
- (n) Title 76, Chapter 15, Explosives and Weapons of Mass Destruction;
- (o) Title 76, Chapter 16, Offenses Concerning Business Practices; and
- (p) Title 76, Chapter 17, Offenses Concerning Kickbacks, Pyramid Schemes, and Patterns of Unlawful Activity.

(21)(a) "Status verification system" means an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.

(b) "Status verification system" includes:

- (i) the e-verify program;
- (ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;
- (iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or
- (iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

(22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

(23) "Undocumented individual" means an individual who:

- (a) lives or works in the state; and
- (b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.

(24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Section 161. Section **63G-12-402** is amended to read:

63G-12-402 (Effective upon governor's approval). Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

- (1)(a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years old who applies for:
- (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or
 - (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.
- (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:
- (i) owns an interest in the contractor that is an unincorporated entity; and
 - (ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).
- (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.
- (3) Verification of lawful presence under this section is not required for:
- (a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;
 - (b) assistance for health care items and services that:
 - (i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and
 - (ii) are not related to an organ transplant procedure;
 - (c) short-term, noncash, in-kind emergency disaster relief;
 - (d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;
 - (e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:
 - (i) deliver in-kind services at the community level, including through public or

- 16145 private nonprofit agencies;
- 16146 (ii) do not condition the provision of assistance, the amount of assistance provided, or
- 16147 the cost of assistance provided on the income or resources of the individual
- 16148 recipient; and
- 16149 (iii) are necessary for the protection of life or safety;
- 16150 (f) the exemption for paying the nonresident portion of total tuition as set forth in
- 16151 Section ~~[53B-8-106]~~ 53H-11-203;
- 16152 (g) an applicant for a license under Section 61-1-4, if the applicant:
- 16153 (i) is registered with the Financial Industry Regulatory Authority; and
- 16154 (ii) files an application with the state Division of Securities through the Central
- 16155 Registration Depository;
- 16156 (h) a state public benefit to be given to an individual under Title 49, Utah State
- 16157 Retirement and Insurance Benefit Act;
- 16158 (i) a home loan that will be insured, guaranteed, or purchased by:
- 16159 (i) the Federal Housing Administration, the Veterans Administration, or any other
- 16160 federal agency; or
- 16161 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
- 16162 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
- 16163 home loan that does not require verification under Subsection (3)(i);
- 16164 (k) an applicant for a license issued by the Department of Commerce or individual
- 16165 described in Subsection (1)(b), if the applicant or individual provides the Department
- 16166 of Commerce:
- 16167 (i) certification, under penalty of perjury, that the applicant or individual is:
- 16168 (A) a United States citizen;
- 16169 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or
- 16170 (C) lawfully present in the United States; and
- 16171 (ii)(A) the number assigned to a driver license or identification card issued under
- 16172 Title 53, Chapter 3, Uniform Driver License Act; or
- 16173 (B) the number assigned to a driver license or identification card issued by a state
- 16174 other than Utah if, as part of issuing the driver license or identification card,
- 16175 the state verifies an individual's lawful presence in the United States; and
- 16176 (l) an applicant for:
- 16177 (i) an Opportunity scholarship described in ~~[Title 53B, Chapter 8, Part 2, Regents'~~
- 16178 ~~Scholarship Program]~~ Section 53H-11-402;

(ii) a New Century scholarship described in Section ~~[53B-8-105]~~ 53H-11-407;

(iii) a promise grant described in Section ~~[53B-13a-104]~~ 53H-11-414; or

(iv) a scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section ~~[53B-2-101]~~ 53H-1-101.

(4)(a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6)(a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under Section 76-8-504; and

(ii) fraudulently obtaining:

(A) public assistance program benefits under Section 76-8-1203.1; or

(B) unemployment compensation under Section 76-8-1301, 76-8-1302, 76-8-1303, or 76-8-1304.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this

section that:

- (a) clearly improve the efficiency of or reduce delay in the verification process; or
- (b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

- (a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and
- (b)(i) monitor the federal SAVE program for application verification errors and significant delays;
- (ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and
- (iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

Section 162. Section **63G-16-201** is amended to read:

63G-16-201 (Effective upon governor's approval). Definitions.

As used in this part:

- (1) "Board of education" means:
 - (a) a local school board described in Title 53G, Chapter 4, School Districts;
 - (b) the State Board of Education;
 - (c) the State Charter School Board created under Section 53G-5-201; or
 - (d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.
- (2) "Federal agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.
- (3)(a) "Federal directive" means:
 - (i) a statute passed by the United States Congress;
 - (ii) an executive order by the president of the United States;
 - (iii) a rule or regulation adopted by a federal agency; or

(iv) an order or action by:

(A) a federal agency; or

(B) an employee or official appointed by the president of the United States.

(b) "Federal directive" does not include any order by the federal government calling the Utah National Guard into the service of the United States.

(4)(a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (4)(a)(i) or (ii), when acting in the capacity of the position;

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment; or

(v) an individual employed by:

(A) an institution of higher education [~~described~~] listed in Section [~~53B-2-101~~] 53H-1-102; or

(B) a school district as defined in Section 53G-11-501.

(b) "Government officer" does not include a member or employee of the legislative branch of state government.

(5) "Local government" means:

(a) a county, city, town, or metro township;

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

Section 163. Section **63G-31-305** is amended to read:

63G-31-305 (Effective upon governor's approval). Higher education student housing.

(1) As used in this section:

(a) "Degree-granting institution" means the same as that term is defined in Section [~~53B-1-101.5~~] 53H-1-101.

(b) "Dwelling unit" means the same as that term is defined in Section 15A-5-102.

(c) "Student housing" means housing that a degree-granting institution publicly owns or controls.

(2) To preserve the individual privacy of males and females, a degree-granting institution that provides student housing may only rent to, assign, or otherwise place an individual in a dwelling unit that is sex-designated within the institution's student housing if the individual's sex corresponds with the sex designation of the dwelling unit within the institution's student housing.

(3) An individual may use the following evidence as a defense against an allegation that the individual is not eligible for renting, assignment, or placement in a sex-designated dwelling unit under Subsection (2): an individual's unamended birth certificate that corresponds with the sex designation of the dwelling unit, which may be supported with a review of any amendment history obtained under Section 26B-8-125.

(4) Subsection (2) does not apply to:

(a) dwelling units within student housing that the institution designates as unisex or single-occupant; or

(b) an intersex individual.

(5) Nothing in this section prohibits a degree-granting institution from offering a dwelling unit in student housing that is not sex-designated if the institution only assigns or places an individual in the dwelling unit who seeks a dwelling unit that is not sex-designated.

Section 164. Section **63H-9-101** is amended to read:

63H-9-101 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Best practices toolbox" means the collection of resources for governmental entities provided on the website of the Office of the Legislative Auditor General that includes a best practice self-assessment and other resources, tools, surveys, and reports designed to help government organizations better serve the citizens of the state.

(2) "Consensus group" means the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

Analyst.

(3)(a) "Independent entity" means an entity that:

- (i) has a public purpose relating to the state or its citizens;
- (ii) is individually created by the state;
- (iii) is separate from the judicial and legislative branches of state government; and
- (iv) is not under the direct supervisory control of the governor.

(b) "Independent entity" does not include an entity that is:

- (i) a county;
- (ii) a municipality as defined in Section 10-1-104;
- (iii) an institution of higher education as defined in Section ~~53B-2-102~~ 53H-1-101;
- (iv) a public school as defined in Section 53G-8-701;
- (v) a special district as defined in Section 17B-1-102;
- (vi) a special service district as defined in Section 17D-1-102;
- (vii) created by an interlocal agreement as described in Section 11-13-203; or
- (viii) an elective constitutional office, including the state auditor, the state treasurer, and the attorney general.

(c) Independent entities that are subject to the provisions of this chapter include the:

- (i) Career Service Review Office created in Section 67-19a-201;
- (ii) Capitol Preservation Board created in Section 63C-9-201;
- (iii) Heber Valley Historic Railroad Authority created in Section 63H-4-102;
- (iv) Military Installation Development Authority created in Section 63H-1-201;
- (v) Office of Inspector General of Medicaid Services created in Section 63A-13-201;
- (vi) Point of the Mountain State Land Authority created in Section 11-59-201;
- (vii) Public Service Commission created in Section 54-1-1;
- (viii) School and Institutional Trust Fund Office created in Section 53C-1-201;
- (ix) School and Institutional Trust Lands Administration created in Section 53D-1-201;
- (x) Utah Beef Council created in Section 4-21-103;
- (xi) Utah Capital Investment Corporation created in Section 63N-6-301;
- (xii) Utah Communications Authority created in Section 63H-7a-201;
- (xiii) Utah Dairy Commission created in Section 4-22-103;
- (xiv) Utah Education and Telehealth Network created in Section ~~53B-17-105~~ 53H-4-213.4;
- (xv) Utah Housing Corporation created in Section 63H-8-201;

- (xvi) Utah Inland Port Authority created in Section 11-58-201;
- (xvii) Utah Innovation Lab created in Section 63N-20-201;
- (xviii) Utah Lake Authority created in Section 11-65-201;
- (xix) Utah Retirement Systems created in Section 49-11-201; and
- (xx) Utah State Fair Park Authority created in Section 11-68-201.

Section 165. Section **63I-1-253** is amended to read:

63I-1-253 (Effective upon governor's approval). Repeal dates: Titles 53 through 53G.

- (1) Section 53-1-122, Road Rage Awareness and Prevention Restricted Account, is repealed July 1, 2028.
- (2) Section 53-2a-105, Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.
- (3) Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2030.
- (4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.
- (5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.
- (6) Section 53-2d-104, State Emergency Medical Services Committee -- Membership -- Expenses, is repealed July 1, 2029.
- (7) Section 53-2d-503, Establishment of maximum rates, is repealed July 1, 2027.
- (8) Section 53-5a-302, Concealed Firearm Review Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.
- (9) Section 53-11-104, Board, is repealed July 1, 2029.
- (10) Title 53, Chapter 31, Department Interaction With Local Law Enforcement, is repealed July 1, 2027.
- ~~[(11) Subsection 53B-1-301(1)(j), regarding the Higher Education and Corrections Council, is repealed July 1, 2027.]~~
- ~~[(12) Section 53B-7-709, Five-year performance goals, is repealed July 1, 2027.]~~
- ~~[(13) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.]~~
- ~~[(14) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.]~~
- ~~[(15) Section 53B-17-1203, SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.]~~
- ~~[(16) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.]~~

16383 [~~(17)~~ Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.]
16384 [~~(18)~~ Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure
16385 Research Center, is repealed July 1, 2028.]
16386 [~~(19)~~ Title 53B, Chapter 18, Part 19, Center for Civic Excellence, is repealed July 1, 2030.]
16387 [~~(20)~~ Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1,
16388 2027.]
16389 [~~(21)~~ (11) Subsection 53C-3-203(4)(b)(vii), regarding the distribution of money from the
16390 Land Exchange Distribution Account to the Geological Survey for test wells and other
16391 hydrologic studies in the West Desert, is repealed July 1, 2030.
16392 [~~(22)~~ (12) Subsection 53E-1-201(1)(q), regarding the Higher Education and Corrections
16393 Council, is repealed July 1, 2027.
16394 [~~(23)~~ (13) Subsection 53E-2-304(6), regarding foreclosing a private right of action or
16395 waiver of governmental immunity, is repealed July 1, 2027.
16396 [~~(24)~~ (14) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is
16397 repealed July 1, 2027.
16398 [~~(25)~~ (15) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is
16399 repealed July 1, 2027.
16400 [~~(26)~~ (16) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed
16401 January 1, 2028.
16402 [~~(27)~~ (17) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.
16403 [~~(28)~~ (18) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission,
16404 is repealed July 1, 2033.
16405 [~~(29)~~ (19) Subsection 53E-7-207(7), regarding a private right of action or waiver of
16406 governmental immunity, is repealed July 1, 2027.
16407 [~~(30)~~ (20) Section 53F-5-215, Elementary teacher preparation assessment grant, is repealed
16408 July 1, 2028.
16409 [~~(31)~~ (21) Section 53F-5-219, Local Innovations Civics Education Pilot Program, is
16410 repealed July 1, 2026.
16411 [~~(32)~~ (22) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July
16412 1, 2027.
16413 [~~(33)~~ (23) Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, is
16414 repealed January 1, 2025.
16415 [~~(34)~~ (24) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is
16416 repealed January 1, 2025.

- 16417 ~~[(35)]~~ (25) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.
- 16418 ~~[(36)]~~ (26) Subsection 53G-9-703(4), regarding the parental video presentation concerning
- 16419 student use of technology, is repealed January 1, 2030.
- 16420 (27) Subsection 53H-1-402(1)(j), regarding the Higher Education and Corrections Council,
- 16421 is repealed July 1, 2027.
- 16422 (28) Section 53H-1-604, Higher Education and Corrections Council, is repealed July 1,
- 16423 2027.
- 16424 (29) Subsection 53H-4-210(3), regarding the creation of the SafeUT and School Safety
- 16425 Commission, is repealed January 1, 2030.
- 16426 (30) Subsection 53H-4-210(4), regarding the appointment of the members of the SafeUT
- 16427 and School Safety Commission, is repealed January 1, 2030.
- 16428 (31) Subsection 53H-4-210(5), regarding the attorney general designating the chair of the
- 16429 SafeUT and School Safety Commission, is repealed January 1, 2030.
- 16430 (32) Subsection 53H-4-210(6), regarding the quorum requirements of the SafeUT and
- 16431 School Safety Commission, is repealed January 1, 2030.
- 16432 (33) Subsection 53H-4-210(7), regarding a formal action of the SafeUT and School Safety
- 16433 Commission, is repealed January 1, 2030.
- 16434 (34) Subsection 53H-4-210(8), regarding compensation for members of the SafeUT and
- 16435 School Safety Commission, is repealed January 1, 2030.
- 16436 (35) Subsection 53H-4-210(9), regarding the support staff for the SafeUT and School
- 16437 Safety Commission, is repealed January 1, 2030.
- 16438 (36) Section 53H-4-306.1, Definitions -- Electrification of Transportation Infrastructure
- 16439 Research Center, is repealed July 1, 2028.
- 16440 (37) Section 53H-4-306.2, Electrification of Transportation Infrastructure Research Center
- 16441 -- Designation -- Duties, is repealed July 1, 2028.
- 16442 (38) Section 53H-4-306.3, Electrification of Transportation Infrastructure Research Center
- 16443 -- Steering committee, is repealed July 1, 2028.
- 16444 (39) Section 53H-4-306.4, Electrification of Transportation Infrastructure Research Center
- 16445 -- Industry advisory board, is repealed July 1, 2028.
- 16446 (40) Section 53H-4-306.5, Electrification of Transportation Infrastructure Research Center
- 16447 -- Duties of the project director, is repealed July 1, 2028.
- 16448 (41) Section 53H-4-306.6, Electrification of Transportation Infrastructure Research Center
- 16449 -- Project development and strategic objectives -- Reporting requirements, is repealed
- 16450 July 1, 2028.

- 16451 (42) Section 53H-4-307.1, Center for Civic Excellence, is repealed July 1, 2030.
- 16452 (43) Section 53H-4-307.2, Center for Civic Excellence -- Duties -- Authority, is repealed
- 16453 July 1, 2030.
- 16454 (44) Section 53H-4-307.3, Center for Civic Excellence -- Leadership, is repealed July 1,
- 16455 2030.
- 16456 (45) Section 53H-4-307.4, Center for Civic Excellence -- Faculty, is repealed July 1, 2030.
- 16457 (46) Section 53H-4-307.5, Center for Civic Excellence -- Curriculum, is repealed July 1,
- 16458 2030.
- 16459 (47) Section 53H-4-307.6, Center for Civic Excellence -- Oversight -- Reporting, is
- 16460 repealed July 1, 2030.
- 16461 (48) Section 53H-4-313, Food Security Council, is repealed July 1, 2027.
- 16462 (49) Section 53H-8-305, Five-year performance goals, is repealed July 1, 2027.
- 16463 (50) Title 53H, Chapter 10, Part 4, Education Savings Incentive Program, is repealed July
- 16464 1, 2028.
- 16465 Section 166. Section **63I-2-253** is amended to read:
- 16466 **63I-2-253 (Effective upon governor's approval). Repeal dates: Titles 53 through**
- 16467 **53G.**
- 16468 (1) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1,
- 16469 2026.
- 16470 (2) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem --
- 16471 Report -- Expiration, is repealed December 31, 2025.
- 16472 (3) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is
- 16473 repealed December 31, 2025.
- 16474 (4) Section 53-25-103, Airport dangerous weapon possession reporting requirements, is
- 16475 repealed December 31, 2031.
- 16476 (5) Subsection 53-25-602(4)(b), regarding the rights of a peace officer placed onto a
- 16477 prosecution agency's Brady identification system before May 7, 2025, is repealed
- 16478 December 1, 2025.
- 16479 (6) Subsection 53-29-302(2)(b)(ii), regarding the requirement for the Department of
- 16480 Corrections to submit the results of risk assessments for sex offenders to the State
- 16481 Commission on Criminal and Juvenile Justice, is repealed January 1, 2030.
- 16482 [~~(7) Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible~~
- 16483 ~~students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet~~
- 16484 ~~requirements -- Duration of incentive loans, is repealed July 1, 2027.]~~

- 16485 ~~[(8)]~~ (7) Subsection 53E-3-501(7)(e)(ii), regarding a report on the packet method, is
16486 repealed July 1, 2028.
- 16487 ~~[(9)]~~ (8) Subsection 53F-2-504(6), regarding a report on the Salary Supplement for Highly
16488 Needed Educators, is repealed July 1, 2026.
- 16489 ~~[(10)]~~ (9) Section 53F-5-221, Management of energy and water use pilot program, is
16490 repealed July 1, 2028.
- 16491 ~~[(11)]~~ (10) Section 53F-5-222, Mentoring and Supporting Teacher Excellence and
16492 Refinement Pilot Program, is repealed July 1, 2028.
- 16493 ~~[(12)]~~ (11) Section 53F-5-223, Stipends for Future Educators Grant Program, is repealed
16494 July 1, 2028.
- 16495 ~~[(13)]~~ (12) Subsection 53G-11-502(1), regarding implementation of the educator evaluation
16496 process, is repealed July 1, 2029.
- 16497 ~~[(14)]~~ (13) Section 53G-11-506, Establishment of educator evaluation program -- Joint
16498 committee, is repealed July 1, 2029.
- 16499 ~~[(15)]~~ (14) Section 53G-11-507, Components of educator evaluation program, is repealed
16500 July 1, 2029.
- 16501 ~~[(16)]~~ (15) Section 53G-11-508, Summative evaluation timelines -- Review of summative
16502 evaluations, is repealed July 1, 2029.
- 16503 ~~[(17)]~~ (16) Section 53G-11-509, Mentor for provisional educator, is repealed July 1, 2029.
- 16504 ~~[(18)]~~ (17) Section 53G-11-510, State board to describe a framework for the evaluation of
16505 educators, is repealed July 1, 2029.
- 16506 ~~[(19)]~~ (18) Section 53G-11-511, Rulemaking for privacy protection, is repealed July 1, 2029.
- 16507 ~~[(20)]~~ (19) Subsection 53G-11-520(1), regarding optional alternative educator evaluation
16508 processes, is repealed July 1, 2029.
- 16509 ~~[(21)]~~ (20) Subsection 53G-11-520(2), regarding an exception from educator evaluation
16510 process requirements, is repealed July 1, 2029.
- 16511 Section 167. Section **63J-1-206** is amended to read:
- 16512 **63J-1-206 (Effective upon governor's approval). Appropriations governed by**
16513 **chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.**
- 16514 (1)(a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted
16515 in the appropriating act:
- 16516 (i) all money appropriated by the Legislature is appropriated upon the terms and
16517 conditions set forth in this chapter; and
- 16518 (ii) any department, agency, or institution that accepts money appropriated by the

- Legislature does so subject to the requirements of this chapter.
- (b) This section does not apply to:
- (i) the Legislature and its committees; and
 - (ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.
- (2)(a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.
- (b) Each schedule of programs or restriction attached to an appropriation item:
- (i) is a restriction or limitation upon the expenditure of the respective appropriation made;
 - (ii) does not itself appropriate any money; and
 - (iii) is not itself an item of appropriation.
- (c)(i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.
- (ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:
- (A) transfer money from the lease payments line item to other line items within the agency; and
 - (B) retain and use the excess money for other purposes.
- (d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.
- (e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.
- (f)(i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.
- (ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

- (3) Notwithstanding Subsection (2)(c)(i):
- (a) the state superintendent:
 - (i) may transfer money appropriated for:
 - (A) the Minimum School Program between line items in accordance with Section 53F-2-205;
 - (B) initial enrollment estimates for charter schools between line items in accordance with Section 53F-2-707; and
 - (ii) shall provide the state board with information on the transfers described in Subsection (3)(a)(i) within 60 days of a transfer; and
 - (b) the Utah Board of Higher Education may transfer reinvestment funds, as defined in Section [~~53B-7-107~~] 53H-8-210, to a degree-granting institution, in accordance with the process described in Section [~~53B-7-107~~] 53H-8-210; and
 - (c) the Department of Government Operations may transfer money appropriated to another department, agency, institution, or division for the purpose of paying the costs of pay for performance under Section 63A-17-112.
- (4) During fiscal years 2026 through 2029, the Utah Board of Higher Education may transfer money from the Utah Board of Higher Education's line item for high-value careers to the operating budgets of institutions of higher education, as defined in Section [~~53B-3-102~~] 53H-1-101, in amounts that are no greater than the amount the Legislature approves.
- Section 168. Section **63J-1-602.1** is amended to read:
- 63J-1-602.1 (Effective upon governor's approval). List of nonlapsing appropriations from accounts and funds.**
- Appropriations made from the following accounts or funds are nonlapsing:
- (1) The Native American Repatriation Restricted Account created in Section 9-9-407.
 - (2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.
 - (3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.
 - (4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.
 - (5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.
 - (6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.
 - (7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in

16587 Section 19-5-126.

16588 (8) State funds for matching federal funds in the Children's Health Insurance Program as
16589 provided in Section 26B-3-906.

16590 (9) Funds collected from the program fund for local health department expenses incurred in
16591 responding to a local health emergency under Section 26B-7-111.

16592 (10) The Technology Development Restricted Account created in Section 31A-3-104.

16593 (11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

16594 (12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the
16595 extent that Section 31A-3-304 makes the money received under that section free revenue.

16596 (13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

16597 (14) The Health Insurance Actuarial Review Restricted Account created in Section
16598 31A-30-115.

16599 (15) The State Mandated Insurer Payments Restricted Account created in Section
16600 31A-30-118.

16601 (16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

16602 (17) The Underage Drinking Prevention Media and Education Campaign Restricted
16603 Account created in Section 32B-2-306.

16604 (18) The School Readiness Restricted Account created in Section 35A-15-203.

16605 (19) Money received by the Utah State Office of Rehabilitation for the sale of certain
16606 products or services, as provided in Section 35A-13-202.

16607 (20) The Property Loss Related to Homelessness Compensation Enterprise Fund created in
16608 Section 35A-16-212.

16609 (21) The Homeless Shelter Cities Mitigation Restricted Account created in Section
16610 35A-16-402.

16611 (22) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

16612 (23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

16613 (24) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

16614 (25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the
16615 Motor Vehicle Division.

16616 (26) The License Plate Restricted Account created by Section 41-1a-122.

16617 (27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
16618 created by Section 41-3-110 to the State Tax Commission.

16619 (28) The State Disaster Recovery Restricted Account to the Division of Emergency
16620 Management, as provided in Section 53-2a-603.

- 16621 (29) The Disaster Response, Recovery, and Mitigation Restricted Account created in
16622 Section 53-2a-1302.
- 16623 (30) The Emergency Medical Services Critical Needs Account created in Section 53-2d-110.
- 16624 (31) The Department of Public Safety Restricted Account to the Department of Public
16625 Safety, as provided in Section 53-3-106.
- 16626 (32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.
- 16627 (33) The DNA Specimen Restricted Account created in Section 53-10-407.
- 16628 (34) The Technical Colleges Capital Projects Fund created in Section [~~53B-2a-118~~]
16629 53H-9-605.
- 16630 (35) The Higher Education Capital Projects Fund created in Section [~~53B-22-202~~]
16631 53H-9-502.
- 16632 (36) A certain portion of money collected for administrative costs under the School
16633 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.
- 16634 (37) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject
16635 to Subsection 54-5-1.5(4)(d).
- 16636 (38) Funds collected from a surcharge fee to provide certain licensees with access to an
16637 electronic reference library, as provided in Section 58-3a-105.
- 16638 (39) Certain fines collected by the Division of Professional Licensing for violation of
16639 unlawful or unprofessional conduct that are used for education and enforcement
16640 purposes, as provided in Section 58-17b-505.
- 16641 (40) Funds collected from a surcharge fee to provide certain licensees with access to an
16642 electronic reference library, as provided in Section 58-22-104.
- 16643 (41) Funds collected from a surcharge fee to provide certain licensees with access to an
16644 electronic reference library, as provided in Section 58-55-106.
- 16645 (42) Funds collected from a surcharge fee to provide certain licensees with access to an
16646 electronic reference library, as provided in Section 58-56-3.5.
- 16647 (43) Certain fines collected by the Division of Professional Licensing for use in education
16648 and enforcement of the Security Personnel Licensing Act, as provided in Section
16649 58-63-103.
- 16650 (44) The Relative Value Study Restricted Account created in Section 59-9-105.
- 16651 (45) The Cigarette Tax Restricted Account created in Section 59-14-204.
- 16652 (46) Funds paid to the Division of Real Estate for the cost of a criminal background check
16653 for a mortgage loan license, as provided in Section 61-2c-202.
- 16654 (47) Funds paid to the Division of Real Estate for the cost of a criminal background check

- 16655 for principal broker, associate broker, and sales agent licenses, as provided in Section
16656 61-2f-204.
- 16657 (48) Certain funds donated to the Department of Health and Human Services, as provided
16658 in Section 26B-1-202.
- 16659 (49) Certain funds donated to the Division of Child and Family Services, as provided in
16660 Section 80-2-404.
- 16661 (50) Funds collected by the Office of Administrative Rules for publishing, as provided in
16662 Section 63G-3-402.
- 16663 (51) The Immigration Act Restricted Account created in Section 63G-12-103.
- 16664 (52) Money received by the military installation development authority, as provided in
16665 Section 63H-1-504.
- 16666 (53) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.
- 16667 (54) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.
- 16668 (55) The Utah Capital Investment Restricted Account created in Section 63N-6-204.
- 16669 (56) The Motion Picture Incentive Account created in Section 63N-8-103.
- 16670 (57) Funds collected by the housing of state probationary inmates or state parole inmates, as
16671 provided in Subsection 64-13e-104(2).
- 16672 (58) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and
16673 State Lands, as provided in Section 65A-8-103.
- 16674 (59) The following funds or accounts created in Section 72-2-124:
- 16675 (a) Transportation Investment Fund of 2005;
- 16676 (b) Transit Transportation Investment Fund;
- 16677 (c) Cottonwood Canyons Transportation Investment Fund;
- 16678 (d) Active Transportation Investment Fund; and
- 16679 (e) Commuter Rail Subaccount.
- 16680 (60) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.
- 16681 (61) Certain funds received by the Office of the State Engineer for well drilling fines or
16682 bonds, as provided in Section 73-3-25.
- 16683 (62) The Water Resources Conservation and Development Fund, as provided in Section
16684 73-23-2.
- 16685 (63) Award money under the State Asset Forfeiture Grant Program, as provided under
16686 Section 77-11b-403.
- 16687 (64) Funds donated or paid to a juvenile court by private sources, as provided in Subsection
16688 78A-6-203(1)(c).

- 16689 (65) Fees for certificate of admission created under Section 78A-9-102.
- 16690 (66) Funds collected for adoption document access as provided in Sections 81-13-103,
- 16691 81-13-504, and 81-13-505.
- 16692 (67) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah
- 16693 Indigent Defense Commission.
- 16694 (68) The Utah Geological Survey Restricted Account created in Section 79-3-403.
- 16695 (69) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park,
- 16696 and Green River State Park, as provided under Section 79-4-403.
- 16697 (70) Certain funds received by the Division of State Parks from the sale or disposal of
- 16698 buffalo, as provided under Section 79-4-1001.

16699 Section 169. Section **63J-1-602.2** is amended to read:

16700 **63J-1-602.2 (Effective upon governor's approval) (Partially Repealed 07/01/29).**

16701 **List of nonlapsing appropriations to programs.**

16702 Appropriations made to the following programs are nonlapsing:

- 16703 (1) The Legislature and the Legislature's committees.
- 16704 (2) The State Board of Education, including all appropriations to agencies, line items, and
- 16705 programs under the jurisdiction of the State Board of Education, in accordance with
- 16706 Section 53F-9-103.
- 16707 (3) The Rangeland Improvement Act created in Section 4-20-101.
- 16708 (4) The Percent-for-Art Program created in Section 9-6-404.
- 16709 (5) The LeRay McAllister Working Farm and Ranch Fund Program created in Title 4,
- 16710 Chapter 46, Part 3, LeRay McAllister Working Farm and Ranch Fund[~~Program~~].
- 16711 (6) The Utah Lake Authority created in Section 11-65-201.
- 16712 (7) Dedicated credits accrued to the Utah Marriage Commission as provided under
- 16713 Subsection 17-16-21(2)(d)(ii).
- 16714 (8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.
- 16715 (9) Sanctions collected as dedicated credits from Medicaid providers under Subsection
- 16716 26B-3-108(7).
- 16717 (10) The primary care grant program created in Section 26B-4-310.
- 16718 (11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.
- 16719 (12) The Utah Health Care Workforce Financial Assistance Program created in Section
- 16720 26B-4-702.
- 16721 (13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.
- 16722 (14) The Utah Medical Education Council for the:

- 16723 (a) administration of the Utah Medical Education Program created in Section 26B-4-707;
16724 (b) provision of medical residency grants described in Section 26B-4-711; and
16725 (c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.
- 16726 (15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.
16727 (16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program
16728 created in Section 26B-7-122.
- 16729 (17) Funds that the Department of Alcoholic Beverage Services retains in accordance with
16730 Subsection 32B-2-301(8)(a) or (b).
- 16731 (18) The General Assistance program administered by the Department of Workforce
16732 Services, as provided in Section 35A-3-401.
- 16733 (19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.
- 16734 (20) The Search and Rescue Financial Assistance Program, as provided in Section
16735 53-2a-1102.
- 16736 (21) The Emergency Medical Services Grant Program in Section 53-2d-207.
- 16737 (22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
- 16738 (23) The Utah Board of Higher Education for teacher preparation programs, as provided in
16739 Section [~~53B-6-104~~] 53H-5-402.
- 16740 (24) Innovation grants under Section 53G-10-608, except as provided in Subsection
16741 53G-10-608(3).
- 16742 (25) The Division of Fleet Operations for the purpose of upgrading underground storage
16743 tanks under Section 63A-9-401.
- 16744 (26) The Division of Technology Services for technology innovation as provided under
16745 Section 63A-16-903.
- 16746 (27) The State Capitol Preservation Board created by Section 63O-2-201.
- 16747 (28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
- 16748 (29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado
16749 River Authority of Utah Act.
- 16750 (30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as
16751 provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 16752 (31) The Governor's Office of Economic Opportunity's Rural Employment Expansion
16753 Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion
16754 Program.
- 16755 (32) County correctional facility contracting program for state inmates as described in
16756 Section 64-13e-103.

- (33) County correctional facility reimbursement program for state probationary inmates and state parole inmates as described in Section 64-13e-104.
- (34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.
- (35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.
- (36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.
- (37) The Traffic Noise Abatement Program created in Section 72-6-112.
- (38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.
- (39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.
- (40) A state rehabilitative employment program, as provided in Section 78A-6-210.
- (41) The Utah Geological Survey, as provided in Section 79-3-401.
- (42) The Bonneville Shoreline Trail Program created under Section 79-5-503.
- (43) Adoption document access as provided in Sections 81-13-103, 81-13-504, and 81-13-505.
- (44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.
- (45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.
- (46) The State Tax Commission for reimbursing counties for deferrals in accordance with Section 59-2a-901.
- (47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.
- Section 170. Section **63L-6-102** is amended to read:
- 63L-6-102 (Effective upon governor's approval). Definitions.**
- As used in this chapter:
- (1) "Governmental entity" is as defined in Section 59-2-511.
- (2) "Net proceeds" means the proceeds from the sale of public lands, after subtracting expenses incident to the sale of the public lands.
- (3) "Public lands" means lands within the exterior boundaries of this state except:

- 16791 (a) lands to which title is held by a person who is not a governmental entity;
- 16792 (b) lands owned or held in trust by this state, a political subdivision of this state, or an
- 16793 independent entity;
- 16794 (c) lands reserved for use by the state system of public education as described in Utah
- 16795 Constitution, Article X, Section 2, or [a-state] an institution of higher education listed
- 16796 in Section [~~53B-1-102~~] 53H-1-102;
- 16797 (d) school and institutional trust lands as defined in Section 53C-1-103;
- 16798 (e) lands within the exterior boundaries as of January 1, 2012, of the following that are
- 16799 designated as national parks:
- 16800 (i) Arches National Park;
- 16801 (ii) Bryce Canyon National Park;
- 16802 (iii) Canyonlands National Park;
- 16803 (iv) Capitol Reef National Park; and
- 16804 (v) Zion National Park;
- 16805 (f) lands within the exterior boundaries as of January 1, 2012, of the following national
- 16806 monuments managed by the National Park Service as of January 1, 2012:
- 16807 (i) Cedar Breaks National Monument;
- 16808 (ii) Dinosaur National Monument;
- 16809 (iii) Hovenweep National Monument;
- 16810 (iv) Natural Bridges National Monument;
- 16811 (v) Rainbow Bridge National Monument; and
- 16812 (vi) Timpanogos Cave National Monument;
- 16813 (g) lands within the exterior boundaries as of January 1, 2012, of the Golden Spike
- 16814 National Historic Site;
- 16815 (h) lands within the exterior boundaries as of January 1, 2012, of the following
- 16816 wilderness areas located in the state that, as of January 1, 2012, are designated as part
- 16817 of the National Wilderness Preservation System under the Wilderness Act of 1964,
- 16818 16 U.S.C. [–]1131 et seq.:
- 16819 (i) Ashdown Gorge Wilderness;
- 16820 (ii) Beartrap Canyon Wilderness;
- 16821 (iii) Beaver Dam Mountains Wilderness;
- 16822 (iv) Black Ridge Canyons Wilderness;
- 16823 (v) Blackridge Wilderness;
- 16824 (vi) Box-Death Hollow Wilderness;

- 16825 (vii) Canaan Mountain Wilderness;
- 16826 (viii) Cedar Mountain Wilderness;
- 16827 (ix) Cottonwood Canyon Wilderness;
- 16828 (x) Cottonwood Forest Wilderness;
- 16829 (xi) Cougar Canyon Wilderness;
- 16830 (xii) Dark Canyon Wilderness;
- 16831 (xiii) Deep Creek Wilderness;
- 16832 (xiv) Deep Creek North Wilderness;
- 16833 (xv) Deseret Peak Wilderness;
- 16834 (xvi) Doc's Pass Wilderness;
- 16835 (xvii) Goose Creek Wilderness;
- 16836 (xviii) High Uintas Wilderness;
- 16837 (xix) LaVerkin Creek Wilderness;
- 16838 (xx) Lone Peak Wilderness;
- 16839 (xxi) Mount Naomi Wilderness;
- 16840 (xxii) Mount Nebo Wilderness;
- 16841 (xxiii) Mount Olympus Wilderness;
- 16842 (xxiv) Mount Timpanogos Wilderness;
- 16843 (xxv) Paria Canyon-Vermilion Cliffs Wilderness;
- 16844 (xxvi) Pine Valley Mountain Wilderness;
- 16845 (xxvii) Red Butte Wilderness;
- 16846 (xxviii) Red Mountain Wilderness;
- 16847 (xxix) Slaughter Creek Wilderness;
- 16848 (xxx) Taylor Creek Wilderness;
- 16849 (xxxi) Twin Peaks Wilderness;
- 16850 (xxxii) Wellsville Mountain Wilderness; and
- 16851 (xxxiii) Zion Wilderness;
- 16852 (i) lands with respect to which the jurisdiction is ceded to the United States as provided
- 16853 in Section 63L-1-201 or 63L-1-203;
- 16854 (j) real property or tangible personal property owned by the United States if the property
- 16855 is within the boundaries of a municipality; or
- 16856 (k) lands, including water rights, belonging to an Indian or Indian tribe, band, or
- 16857 community that is held in trust by the United States or is subject to a restriction
- 16858 against alienation imposed by the United States.

Section 171. Section **63M-7-210** is amended to read:

63M-7-210 (Effective upon governor's approval). Pilot program of competency-based career and technical education grants.

(1) As used in this section:

- (a) "Certificate program provider" means a technical college that provides competency-based career and technical education.
- (b) "Commission" means the State Commission on Criminal and Juvenile Justice.
- (c)(i) "Competency-based career and technical education" means career and technical education that will result in appropriate licensing, certification, or other evidence of completion of training and qualification for specific employment.
- (ii) "Competency-based career and technical education" includes services provided under Section [~~53B-2a-106~~] 53H-3-1203.
- (d) "Qualifying education program" means a program overseen by a city or county prosecutor office to provide for an individual obtaining:
 - (i) a high school diploma or a Utah high school completion diploma as defined by rule made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 - (ii) competency-based career and technical education.
- (e) "Technical college" means the same as that term is defined in Section [~~53B-1-101.5~~] 53H-1-101.

(2) In accordance with this section, the commission shall establish a pilot grant program for fiscal year 2019 that funds the costs of two employees who:

- (a) are located in different prosecutor offices that operate in areas that have proximity to a technical college; and
- (b) oversee a program that provides for participation in a qualifying education program by an individual who is convicted of, pleads guilty to, or pleads no contest to a misdemeanor or third degree felony:
 - (i) as an alternative to incarceration;
 - (ii) for a reduction of fines or court fees;
 - (iii) for a two-step conviction reduction under Section 76-3-402; or
 - (iv) for a combination of the actions described in Subsections (2)(b)(i) through (iii).

(3) As a condition of participating in a qualifying education program under this section, an individual shall:

- (a) comply with the requirements of the plea agreement entered into by the individual,

the prosecutor, and the court; and

(b) work with a financial aid officer for a qualifying education program and pay the tuition for the competency-based career and technical education charged by the certificate program provider.

(4) The commission will structure and administer the grant pilot program consistent with other grant program requirements that the commission administers.

(5) The commission shall compile a report regarding this grant pilot program based on performance measures and provide the report by no later than November 30, 2020, to the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittee.

Section 172. Section **63M-7-502** is amended to read:

63M-7-502 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(5) "Child" means an unemancipated individual who is under 18 years old.

(6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the claimant has received, or that is readily available to the claimant from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

- 16927 (f) workers' compensation;
- 16928 (g) wage continuation programs of any employer;
- 16929 (h) proceeds of a contract of insurance payable to the claimant for the loss the claimant
- 16930 sustained because of the criminally injurious conduct;
- 16931 (i) a contract providing prepaid hospital and other health care services or benefits for
- 16932 disability; or
- 16933 (j) veteran's benefits, including veteran's hospitalization benefits.
- 16934 (7)(a) "Confidential record" means a record in the custody of the office that relates to a
- 16935 claimant's eligibility for a reparations award.
- 16936 (b) "Confidential record" includes:
- 16937 (i) a reparations claim;
- 16938 (ii) any correspondence regarding:
- 16939 (A) the approval or denial of a reparations claim; or
- 16940 (B) the payment of a reparations award;
- 16941 (iii) a document submitted to the office in support of a reparations award;
- 16942 (iv) a medical or mental health treatment plan; and
- 16943 (v) an investigative report provided to the office by a law enforcement agency.
- 16944 (8) "Criminal justice system victim advocate" means the same as that term is defined in
- 16945 Section 77-38-403.
- 16946 (9)(a) "Criminally injurious conduct" other than acts of war declared or not declared
- 16947 means conduct that:
- 16948 (i) is or would be subject to prosecution in this state under Section 76-1-201;
- 16949 (ii) occurs or is attempted;
- 16950 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
- 16951 (iv) is punishable by fine, imprisonment, or death if the individual engaging in the
- 16952 conduct possessed the capacity to commit the conduct; and
- 16953 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
- 16954 aircraft, or water craft, unless the conduct is:
- 16955 (A) intended to cause bodily injury or death;
- 16956 (B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or
- 16957 (C) chargeable as an offense for driving under the influence of alcohol or drugs.
- 16958 (b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and
- 16959 other conduct leading to the psychological injury of an individual resulting from
- 16960 living in a setting that involves a bigamous relationship.

- 16961 (10)(a) "Dependent" means a natural person to whom the victim is wholly or partially
16962 legally responsible for care or support.
- 16963 (b) "Dependent" includes a child of the victim born after the victim's death.
- 16964 (11) "Dependent's economic loss" means loss after the victim's death of contributions of
16965 things of economic value to the victim's dependent, not including services the dependent
16966 would have received from the victim if the victim had not suffered the fatal injury, less
16967 expenses of the dependent avoided by reason of victim's death.
- 16968 (12) "Dependent's replacement services loss" means loss reasonably and necessarily
16969 incurred by the dependent after the victim's death in obtaining services in lieu of those
16970 the decedent would have performed for the victim's benefit if the victim had not suffered
16971 the fatal injury, less expenses of the dependent avoided by reason of the victim's death
16972 and not subtracted in calculating the dependent's economic loss.
- 16973 (13) "Director" means the director of the office.
- 16974 (14) "Disposition" means the sentencing or determination of penalty or punishment to be
16975 imposed upon an individual:
- 16976 (a) convicted of a crime;
- 16977 (b) found delinquent; or
- 16978 (c) against whom a finding of sufficient facts for conviction or finding of delinquency is
16979 made.
- 16980 (15)(a) "Economic loss" means economic detriment consisting only of allowable
16981 expense, work loss, replacement services loss, and if injury causes death, dependent's
16982 economic loss and dependent's replacement service loss.
- 16983 (b) "Economic loss" includes economic detriment even if caused by pain and suffering
16984 or physical impairment.
- 16985 (c) "Economic loss" does not include noneconomic detriment.
- 16986 (16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.
- 16987 (17) "Fraudulent claim" means a filed reparations based on material misrepresentation of
16988 fact and intended to deceive the reparations staff for the purpose of obtaining reparation
16989 funds for which the claimant is not eligible.
- 16990 (18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.
- 16991 (19)(a) "Interpersonal violence" means an act involving violence, physical harm, or a
16992 threat of violence or physical harm, that is committed by an individual who is or has
16993 been in a domestic, dating, sexual, or intimate relationship with the victim.
- 16994 (b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act

described in Subsection (19)(a).

- (20) "Law enforcement agency" means a public or private agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision of this state.
- (21) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
- (22)(a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.
- (b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.
- (23) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (24) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (25) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.
- (26) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.
- (27) "Nonpublic restitution record" means a restitution record that contains a claimant's medical or mental health information.
- (28) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.
- (29) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.
- (30) "Offense" means a violation of Title 76, Utah Criminal Code.
- (31) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.
- (32) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.
- (33) "Public restitution record" means a restitution record that does not contain a claimant's medical or mental health information.
- (34)(a) "Rape crisis and services center" means a nonprofit entity that assists victims of

sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section ~~[53B-28-201]~~ 53H-14-401.

(35) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

(36) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

(37)(a) "Reparations officer" means an individual employed by the office to investigate a claimant's request for reparations and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

(38) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

(39)(a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

(40) "Restitution" means the same as that term is defined in Section 77-38b-102.

(41)(a) "Restitution record" means a record documenting payments made to, or on behalf of, a claimant by the office that the office relies on to support a restitution request made in accordance with Section 77-38b-205.

(b) "Restitution record" includes:

(i) a notice of restitution;

(ii) an itemized list of payments;

(iii) an invoice, receipt, or bill submitted to the office for reimbursement; and

(iv) any documentation that the office relies on to establish a nexus between an offender's criminally injurious conduct and a reparations award made by the office.

(42) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Service provider" means an individual or agency who provides a service to a claimant

for a monetary fee, except attorneys as provided in Section 63M-7-524.

(44) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

(45)(a) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual assault" does not include criminal conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness; or

(iv) Section 76-5-420, lewdness involving a child.

(46) "Sexual assault counselor" means an individual who:

(a) is employed by or volunteers at a rape crisis and services center;

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) is under the supervision of the director of a rape crisis and services center or the director's designee.

(47) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

(48) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

(49)(a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(50) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim

17097 was capable of performing but unreasonably failed to undertake.

17098 Section 173. Section **64-13-6** is amended to read:

17099 **64-13-6 (Effective upon governor's approval). Department duties.**

17100 (1) The department shall:

- 17101 (a) protect the public through institutional care and confinement, and supervision in the
17102 community of offenders where appropriate;
- 17103 (b) implement court-ordered punishment of offenders;
- 17104 (c) provide evidence-based and evidence-informed program opportunities for offenders
17105 designed to reduce offenders' criminogenic and recidivism risks, including
17106 behavioral, cognitive, educational, and career-readiness program opportunities;
- 17107 (d) ensure that offender participation in all program opportunities described in
17108 Subsection (1)(c) is voluntary;
- 17109 (e) where appropriate, utilize offender volunteers as mentors in the program
17110 opportunities described in Subsection (1)(c);
- 17111 (f) provide treatment for sex offenders who are found to be treatable based upon criteria
17112 developed by the department;
- 17113 (g) provide the results of ongoing clinical assessment of sex offenders and objective
17114 diagnostic testing to sentencing and release authorities;
- 17115 (h) manage programs that take into account the needs and interests of victims, where
17116 reasonable;
- 17117 (i) through the Division of Adult Probation and Parole created in Section 64-14-202,
17118 supervise probationers and parolees as directed by statute and implemented by the
17119 courts and the Board of Pardons and Parole;
- 17120 (j) subject to Subsection (2), investigate criminal conduct involving offenders
17121 incarcerated in a state correctional facility;
- 17122 (k) cooperate and exchange information with other state, local, and federal law
17123 enforcement agencies to achieve greater success in prevention and detection of crime
17124 and apprehension of criminals;
- 17125 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
17126 Offender Supervision;
- 17127 (m) establish a case action plan based on appropriate validated risk, needs, and
17128 responsivity assessments for each offender as follows:
- 17129 (i)(A) if an offender is to be supervised in the community, the department shall
17130 establish a case action plan for the offender no later than 60 days after the day

- 17131 on which the department's community supervision of the offender begins; and
- 17132 (B) if the offender is committed to the custody of the department, the department
- 17133 shall establish a case action plan for the offender no later than 90 days after the
- 17134 day on which the offender is committed to the custody of the department;
- 17135 (ii) each case action plan shall:
- 17136 (A) integrate an individualized, evidence-based, and evidence-informed treatment
- 17137 and program plan with clearly defined completion requirements; and
- 17138 (B) require that a case manager will:
- 17139 (I) ensure that an assessment of the education level, occupational interests, and
- 17140 aptitudes of the inmate has been completed;
- 17141 (II) refer the inmate to a higher education student advisor at an institution
- 17142 offering programs consistent with the inmate's interests and aptitudes for
- 17143 advisement on educational preferences and plans;
- 17144 (III) incorporate the inmate's interests, aptitudes, and student advisement into
- 17145 an education plan consistent with the guidance provided by the Higher
- 17146 Education and Corrections Council created in Section ~~[53B-35-201]~~
- 17147 53H-1-604; and
- 17148 (IV) refer the inmate to the student advisor at the institution called for in the
- 17149 case action plan for guidance and assistance with the education process;
- 17150 (iii) the department shall share each newly established case action plan with the
- 17151 sentencing and release authority within 30 days after the day on which the case
- 17152 action plan is established; and
- 17153 (iv) the department shall share any changes to a case action plan, including any
- 17154 change in an offender's risk assessment, with the sentencing and release authority
- 17155 within 30 days after the day of the change;
- 17156 (n) ensure that an inmate has reasonable access to legal research;
- 17157 (o) ensure that any training or certification required of a public official or public
- 17158 employee, as those terms are defined in Section 63G-22-102, complies with Title
- 17159 63G, Chapter 22, State Training and Certification Requirements, if the training or
- 17160 certification is required:
- 17161 (i) under this title;
- 17162 (ii) by the department; or
- 17163 (iii) by an agency or division within the department;
- 17164 (p) when reporting on statewide recidivism, include the metrics and requirements

described in Section 63M-7-102;

(q) create a reentry division that focuses on the successful reentry of inmates into the community, which shall include:

(i) screening and assessments for an inmate's risks and needs;

(ii) individualized plans and case management;

(iii) quality treatment, education, and job preparation;

(iv) community partnerships; and

(v) comprehensive release planning before the inmate's release, including:

(A) coordination with support services; and

(B) coordination with one or more family members or friends, if the inmate has given permission to contact specific individuals for this purpose;

(r) coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

(s) ensure that inmate records regarding discipline, programs, and other relevant metrics are:

(i) complete and updated in a timely manner; and

(ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

(2) In accordance with department policy, the department may conduct criminal investigations regarding an allegation that:

(a) an offender has committed a criminal offense; or

(b) an employee of the department has committed a criminal offense.

(3)(a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time; and

(ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

17199 (4)(a) As used in this Subsection (4):

17200 (i) "Accounts receivable" means any amount owed by an offender arising from a
17201 criminal judgment that has not been paid.

17202 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
17203 surcharges, costs, interest, penalties, restitution to victims, third-party claims,
17204 claims, reimbursement of a reward, and damages that an offender is ordered to
17205 pay.

17206 (b) The department shall collect and disburse, with any interest and any other costs
17207 assessed under Section 64-14-204, an accounts receivable for an offender during:

17208 (i) the parole period and any extension of that period in accordance with Subsection
17209 (4)(c); and

17210 (ii) the probation period for which the court orders supervised probation and any
17211 extension of that period by the department in accordance with Subsection
17212 77-18-105(7).

17213 (c)(i) If an offender has an unpaid balance of the offender's accounts receivable at the
17214 time that the offender's sentence expires or terminates, the department shall be
17215 referred to the sentencing court for the sentencing court to enter a civil judgment
17216 of restitution and a civil accounts receivable as described in Section 77-18-114.

17217 (ii) If the board makes an order for restitution within 60 days from the day on which
17218 the offender's sentence expires or terminates, the board shall refer the order for
17219 restitution to the sentencing court to be entered as a civil judgment of restitution as
17220 described in Section 77-18-114.

17221 (d) This Subsection (4) only applies to offenders sentenced before July 1, 2021.

17222 (5)(a) The department may procure or adopt technology services to facilitate the
17223 coordination of services and enhance accountability with agencies, local partners, and
17224 community-based organizations that are involved with assisting individuals on
17225 probation or parole.

17226 (b) If possible, the technology services described in Subsection (5)(a) shall:

17227 (i) maintain a single, secure client record with a unique identifier to ensure seamless
17228 coordination and reduce duplication of services;

17229 (ii) notify authorized users of incoming service requests or referrals;

17230 (iii) provide secure access to information necessary to understanding and addressing
17231 the needs of an individual, including the individual's service and care history;

17232 (iv) allow authorized users to exchange information with referring or collaborating

organizations through a secure and live chat feature; and
(v) send and track individual referrals, store referral outcomes, and document services provided.

Section 174. Section **64-13e-102** is amended to read:

64-13e-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

- (1) "Alternative treatment program" means:
 - (a) an evidence-based cognitive behavioral therapy program; or
 - (b) a certificate-based program provided by:
 - (i) an institution of higher education described in Subsection [~~53B-1-102(1)(b)~~] 53H-1-102(1)(b); or
 - (ii) a degree-granting institution acting in the degree-granting institution's technical education role described in Section [~~53B-2a-201~~] 53H-3-608.
- (2) "Average state daily incarceration cost" means the average cost incurred by the department per bed day over the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:
 - (a) executive overhead;
 - (b) administrative overhead;
 - (c) transportation overhead;
 - (d) division overhead; and
 - (e) motor pool expenses.
- (3) "Board" means the Board of Pardons and Parole.
- (4) "Commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.
- (5)(a) "Condition of probation day" means a day spent by a state probationary inmate in a county correctional facility as a condition of probation.
- (b) "Condition of probation day" includes a day spent by a state probationary inmate in a county correctional facility:
 - (i) after the date of sentencing;
 - (ii) before the date of sentencing, if a court orders that the state probationary inmate shall receive credit for time served in a county correctional facility before the date of sentencing;
 - (iii) as a condition of an original order of probation; and
 - (iv) as a condition of a new order of probation after a prior revocation of probation.

(c) "Condition of probation day" does not include a day spent by a state probationary inmate in a county correctional facility:

(i) as a probation sanction day;

(ii) after the state probationary inmate has spent 365 consecutive days in a county correctional facility for a single order of probation;

(iii) as a condition of a plea in abeyance agreement if a conviction has not been entered;

(iv) on a hold instituted by the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security; or

(v) after the termination of probation if the state probationary inmate is:

(A) sentenced to prison; or

(B) eligible for release.

(6) "Department" means the Department of Corrections, created in Section 64-13-2.

(7) "Division" means the Division of Finance, created in Section 63A-3-101.

(8)(a) "Eligible bed day" means a day spent by a state probationary inmate or a state parole inmate in a county correctional facility that is eligible for reimbursement under Section 64-13e-104.

(b) "Eligible bed day" includes:

(i) a condition of probation day;

(ii) a parole hold day;

(iii) a parole sanction day; and

(iv) a probation sanction day.

(9)(a) "Parole hold day" means a day spent in a county correctional facility by a state parole inmate under Subsection 64-13-29(3) based on a suspected violation of the state parole inmate's terms of parole.

(b) "Parole hold day" does not include a day spent in a county correctional facility by a state parole inmate:

(i) after the state parole inmate has spent 72 hours, excluding weekends and holidays, for a single suspected violation of the state parole inmate's terms of parole; or

(ii) as a parole sanction day.

(10)(a) "Parole sanction day" means a day spent in a county correctional facility by a state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the state parole inmate's terms of parole.

(b) "Parole sanction day" includes not more than three consecutive days and not more

than a total of six days within a period of 30 days for each sanction.

(c) "Parole sanction day" does not include a parole hold day.

(11)(a) "Probation sanction day" means a day spent in a county correctional facility by a state probationary inmate as a sanction under Subsection 64-13-6(2) based on a violation of the state probationary inmate's terms of probation.

(b) "Probation sanction day" includes not more than three consecutive days and not more than a total of six days within a period of 30 days for each sanction.

(c) "Probation sanction day" does not include:

(i) a condition of probation day; or

(ii) a day spent in a county correctional facility by a state probationary inmate under Subsection 64-14-205(3) based on a suspected violation of the state probationary inmate's terms of probation.

(12) "Rate surplus" means the dollar amount by which the average state daily incarceration cost for a given year exceeds 105% of the prior year's state daily incarceration rate.

(13) "State daily incarceration rate" means the daily per bed dollar basis upon which the department will calculate payments to other parties for housing state inmates and state probationary inmates.

(14) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

(15) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county correctional facility for a reason related to the individual's parole.

(16) "State probationary inmate" means a felony probationer sentenced to time in a county correctional facility under Subsection 77-18-105(6).

(17) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 175. Section **67-3-12** is amended to read:

67-3-12 (Effective upon governor's approval). Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a)(i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same

as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) the State Fair Park Authority, created in Section 11-68-201;

(iv) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;

(v) a special service district under Title 17D, Chapter 1, Special Service District Act;

(vi) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vii) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(ix) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (viii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (viii) under the governmental accounting standards issued by the Governmental Accounting Standards Board;

(x) a conservation district under Title 17D, Chapter 3, Conservation District Act; or

(xi) a governmental nonprofit corporation under Title 11, Chapter 13a, Governmental Nonprofit Corporations Act.

(d)(i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

- 17369 (ii) "Participating state entity" includes an entity that is part of an entity described in
 17370 Subsection (1)(d)(i), if the entity is considered a component unit of the entity
 17371 described in Subsection (1)(d)(i) under the governmental accounting standards
 17372 issued by the Governmental Accounting Standards Board.
- 17373 (e) "Public finance website" or "website" means the website established by the state
 17374 auditor in accordance with this section.
- 17375 (f) "Public financial information" means each record that is required under this section
 17376 or by rule made by the Office of the State Auditor under Subsection (9) to be made
 17377 available on the public finance website, a participating local entity's website, or an
 17378 independent entity's website.
- 17379 (g) "Qualifying entity" means:
- 17380 (i) an independent entity;
- 17381 (ii) a participating local entity;
- 17382 (iii) a participating state entity;
- 17383 (iv) a local education agency;
- 17384 (v) ~~[a state-]~~ an institution of higher education as defined in Section ~~[53B-3-102]~~
 17385 53H-1-101;
- 17386 (vi) the Utah Educational Savings Plan created in Section ~~[53B-8a-103]~~ 53H-10-202;
- 17387 (vii) the Utah Housing Corporation created in Section 63H-8-201;
- 17388 (viii) the School and Institutional Trust Lands Administration created in Section
 17389 53C-1-201;
- 17390 (ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or
- 17391 (x) a URS-participating employer.
- 17392 (h)(i) "URS-participating employer" means an entity that:
- 17393 (A) is a participating employer, as that term is defined in Section 49-11-102; and
- 17394 (B) is not required to report public financial information under this section as a
 17395 qualifying entity described in Subsections (1)(g)(i) through (ix).
- 17396 (ii) "URS-participating employer" does not include:
- 17397 (A) the Utah State Retirement Office created in Section 49-11-201;
- 17398 (B) an insurer that is subject to the disclosure requirements of Section 31A-4-113;
- 17399 (C) a private nonprofit organization that is not a public employees' association; or
- 17400 (D) a withdrawing entity.
- 17401 (i)(i) "Withdrawing entity" means:
- 17402 (A) an entity that elects to withdraw from participation in a system or plan under

- 17403 Title 49, Chapter 11, Part 6, Procedures and Records;
- 17404 (B) until the date determined under Subsection 49-11-626(2)(a), a public
- 17405 employees' association that provides the notice of intent described in
- 17406 Subsection 49-11-626(2)(b); and
- 17407 (C) beginning on the date determined under Subsection 49-11-626(2)(a), a public
- 17408 employees' association that makes an election described in Subsection
- 17409 49-11-626(3).
- 17410 (ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in
- 17411 Sections 49-11-623 and 49-11-624.
- 17412 (2) The state auditor shall establish and maintain a public finance website in accordance
- 17413 with this section.
- 17414 (3) The website shall:
- 17415 (a) permit Utah taxpayers to:
- 17416 (i) view, understand, and track the use of taxpayer dollars by making public financial
- 17417 information available on the Internet for participating state entities, independent
- 17418 entities, participating local entities, and URS-participating employers, using the
- 17419 website; and
- 17420 (ii) link to websites administered by participating local entities, independent entities,
- 17421 or URS-participating employers that do not use the website for the purpose of
- 17422 providing public financial information as required by this section and by rule
- 17423 made under Subsection (9);
- 17424 (b) allow a person that has Internet access to use the website without paying a fee;
- 17425 (c) allow the public to search public financial information on the website;
- 17426 (d) provide access to financial reports, financial audits, budgets, or other financial
- 17427 documents that are used to allocate, appropriate, spend, and account for government
- 17428 funds, as may be established by rule made in accordance with Subsection (9);
- 17429 (e) have a unique and simplified website address;
- 17430 (f) be guided by the principles described in Subsection 63A-16-202(2);
- 17431 (g) include other links, features, or functionality that will assist the public in obtaining
- 17432 and reviewing public financial information, as may be established by rule made under
- 17433 Subsection (9); and
- 17434 (h) include a link to school report cards published on the State Board of Education's
- 17435 website under Section 53E-5-211.
- 17436 (4) The state auditor shall:

- 17437 (a) establish and maintain the website, including the provision of equipment, resources,
17438 and personnel as necessary;
17439 (b) maintain an archive of all information posted to the website;
17440 (c) coordinate and process the receipt and posting of public financial information from
17441 participating state entities; and
17442 (d) coordinate and regulate the posting of public financial information by participating
17443 local entities and independent entities.

17444 (5) A qualifying entity shall permit the public to view the qualifying entity's public
17445 financial information by posting the public financial information to the public finance
17446 website in accordance with rules made under Subsection (9).

17447 (6) The content of the public financial information posted to the public finance website is
17448 the responsibility of the qualifying entity posting the public financial information.

17449 (7) A URS-participating employer shall provide employee compensation information for
17450 each fiscal year ending on or after June 30, 2022:

17451 (a) to the state auditor for posting on the Utah Public Finance Website; or

17452 (b)(i) through the URS-participating employer's own website; and

17453 (ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state
17454 auditor for posting on the Utah Public Finance Website.

17455 (8)(a) A qualifying entity may not post financial information that is classified as private,
17456 controlled, or protected under Title 63G, Chapter 2, Government Records Access and
17457 Management Act, to the public finance website.

17458 (b) An individual who negligently discloses financial information that is classified as
17459 private, protected, or controlled by Title 63G, Chapter 2, Government Records
17460 Access and Management Act, is not criminally or civilly liable for an improper
17461 disclosure of the financial information if the financial information is disclosed solely
17462 as a result of the preparation or publication of the website.

17463 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
17464 Office of the State Auditor:

17465 (a) shall make rules to:

17466 (i) establish which records a qualifying entity is required to post to the public finance
17467 website; and

17468 (ii) establish procedures for obtaining, submitting, reporting, storing, and posting
17469 public financial information on the public finance website; and

17470 (b) may make rules:

(i) governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure; and

(ii) allowing for the inclusion of financial data provided by a participating local entity to be included on the Utah Public Finance Website in a uniform manner.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b)(i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 176. Section **67-5-1** is amended to read:

67-5-1 (Effective upon governor's approval). General duties -- Restrictions.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;

(d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence

- 17505 and of the execution, if the sentence has been executed, and, if not executed, the
17506 reason for the delay or prevention; and
- 17507 (iii) deliver this information to the attorney general's successor in office;
- 17508 (f) exercise supervisory powers over the district and county attorneys of the state in all
17509 matters pertaining to the duties of the district and county attorneys' offices, including
17510 the authority described in Subsection (2);
- 17511 (g) give the attorney general's opinion in writing and without fee, when required, upon
17512 any question of law relating to the office of the requester:
- 17513 (i) in accordance with Section 67-5-1.1, to the Legislature or either house;
- 17514 (ii) to any state officer, board, or commission; and
- 17515 (iii) to any county attorney or district attorney;
- 17516 (h) when required by the public service or directed by the governor, assist any county,
17517 district, or city attorney in the discharge of county, district, or city attorney's duties;
- 17518 (i) purchase in the name of the state, under the direction of the state Board of Examiners,
17519 any property offered for sale under execution issued upon judgments in favor of or
17520 for the use of the state, and enter satisfaction in whole or in part of the judgments as
17521 the consideration of the purchases;
- 17522 (j) when the property of a judgment debtor in any judgment mentioned in Subsection
17523 (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or
17524 encumbrance taking precedence of the judgment in favor of the state, redeem the
17525 property, under the direction of the state Board of Examiners, from the prior
17526 judgment, lien, or encumbrance, and pay all money necessary for the redemption,
17527 upon the order of the state Board of Examiners, out of any money appropriated for
17528 these purposes;
- 17529 (k) when in the attorney general's opinion it is necessary for the collection or
17530 enforcement of any judgment, institute and prosecute on behalf of the state any action
17531 or proceeding necessary to set aside and annul all conveyances fraudulently made by
17532 the judgment debtors, and pay the cost necessary to the prosecution, when allowed by
17533 the state Board of Examiners, out of any money not otherwise appropriated;
- 17534 (l) discharge the duties of a member of all official boards of which the attorney general
17535 is or may be made a member by the Utah Constitution or by the laws of the state, and
17536 other duties prescribed by law;
- 17537 (m) institute and prosecute proper proceedings in any court of the state or of the United
17538 States to restrain and enjoin corporations organized under the laws of this or any

other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;

(s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

(i) in health care facilities that receive payments under the state Medicaid program;

(ii) in board and care facilities, as defined in the federal Social Security Act, 42

U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;

(t)(i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(A) cost the state more than \$500,000; or

(B) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

- (u)(i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:
- (A) settlements reached;
 - (B) consent decrees entered;
 - (C) judgments issued;
 - (D) preliminary injunctions issued;
 - (E) temporary restraining orders issued; or
 - (F) formal or informal policies of the Office of the Attorney General to not enforce a law; and
- (ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:
- (A) the Legislative Management Committee;
 - (B) the Judiciary Interim Committee; and
 - (C) the Law Enforcement and Criminal Justice Interim Committee;
- (v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:
- (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
 - (ii) any other information or analysis requested by the rate committee;
- (w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;
- (x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;
- (y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:
- (i) the constitutionality of a state statute;
 - (ii) the validity of legislation; or
 - (iii) any action of the Legislature;
- (z)(i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

- 17607 (A) establish outreach to the tribes and affected counties and communities; and
17608 (B) foster better relations and a cooperative framework; and
17609 (ii) annually report to the Criminal Justice Appropriations Subcommittee regarding:
17610 (A) the status of the work of the special advisor described in Subsection (1)(z)(i);
17611 and
17612 (B) whether the need remains for the ongoing appropriation to fund the special
17613 advisor described in Subsection (1)(z)(i);
17614 (aa)(i) enforce compliance with Title 63G, Chapter 31, Distinctions on the Basis of
17615 Sex, in accordance with Section 63G-31-401; and
17616 (ii) report to the Legislative Management Committee, upon request, regarding the
17617 attorney general's enforcement under this Subsection (1)(aa); and
17618 (bb) ensure compliance with [~~Title 53B, Chapter 27, Part 6~~] Title 53H, Chapter 7, Part 7,
17619 Student Legal Representation, by:
17620 (i) establishing a process to track the number of complaints submitted by students;
17621 (ii) pursuing civil action to enforce statutory protections; and
17622 (iii) no later than November 1 each year, reporting to the Judiciary Interim
17623 Committee regarding the attorney general's enforcement under this Subsection
17624 (1)(bb).
17625 (2)(a) The attorney general may require a district attorney or county attorney of the state
17626 to, upon request, report on the status of public business entrusted to the district or
17627 county attorney's charge.
17628 (b) The attorney general may review investigation results de novo and file criminal
17629 charges, if warranted, in any case involving a first degree felony, if:
17630 (i) a law enforcement agency submits investigation results to the county attorney or
17631 district attorney of the jurisdiction where the incident occurred and the county
17632 attorney or district attorney:
17633 (A) declines to file criminal charges; or
17634 (B) fails to screen the case for criminal charges within six months after the law
17635 enforcement agency's submission of the investigation results; and
17636 (ii) after consultation with the county attorney or district attorney of the jurisdiction
17637 where the incident occurred, the attorney general reasonably believes action by the
17638 attorney general would not interfere with an ongoing investigation or prosecution
17639 by the county attorney or district attorney of the jurisdiction where the incident
17640 occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

- (i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;
- (ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;
- (iii) access to all evidence gathered or collected in relation to the investigation; and
- (iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

(3) The attorney general:

- (a) is a full-time employee of the state; and
- (b) may not engage in the private practice of law.

Section 177. Section **67-8-3** is amended to read:

67-8-3 (Effective upon governor's approval). Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.

(1)(a) The director of the Division of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, 53E-3-302, ~~[53B-1-408]~~ 53H-1-302, or 53C-1-301.

(b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.

(2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).

- 17675 (3)(a) After consultation with the attorney general, the director of the Division of Human
17676 Resource Management shall place career status attorneys on a state salary schedule at
17677 a range comparable with salaries paid attorneys in private and other public
17678 employment.
- 17679 (b) The attorney general and the executive director shall take into consideration the
17680 experience of the attorney, length of service with the Office of the Attorney General,
17681 quality of performance, and responsibility involved in legal assignments.
- 17682 (c) The attorney general and the executive director shall periodically adjust the salary
17683 levels for attorneys in a career status to reasonably compensate them for full-time
17684 employment and the restrictions placed on the private practice of law.
- 17685 Section 178. Section **67-21-2** is amended to read:
- 17686 **67-21-2 (Effective upon governor's approval). Definitions.**
- 17687 As used in this chapter:
- 17688 (1) "Abuse of authority" means an arbitrary or capricious exercise of power that:
- 17689 (a) adversely affects the employment rights of another; or
- 17690 (b) results in personal gain to the person exercising the authority or to another person.
- 17691 (2) "Communicate" means a verbal, written, broadcast, or other communicated report.
- 17692 (3) "Damages" means general and special damages for injury or loss caused by each
17693 violation of this chapter.
- 17694 (4) "Employee" means a person who performs a service for wages or other remuneration
17695 under a contract of hire, written or oral, express or implied.
- 17696 (5)(a) "Employer" means the public body or public entity that employs the employee.
- 17697 (b) "Employer" includes an agent of an employer.
- 17698 (6) "Good faith" means that an employee acts with:
- 17699 (a) subjective good faith; and
- 17700 (b) the objective good faith of a reasonable employee.
- 17701 (7) "Gross mismanagement" means action or failure to act by a person, with respect to a
17702 person's responsibility, that causes significant harm or risk of harm to the mission of the
17703 public entity or public body that employs, or is managed or controlled by, the person.
- 17704 (8) "Institution of higher education" means the same as that term is defined in Section
17705 53H-1-101.
- 17706 [(8)] (9) "Judicial employee" means an employee of the judicial branch of state government.
- 17707 [(9)] (10) "Legislative employee" means an employee of the legislative branch of state
17708 government.

17709 ~~[(10)]~~ (11) "Political subdivision employee" means an employee of a political subdivision of
17710 the state.

17711 ~~[(11)]~~ (12) "Public body" means any of the following:

- 17712 (a) a state officer, employee, agency, department, division, bureau, board, commission,
17713 council, authority, educational institution, or any other body in the executive branch
17714 of state government;
- 17715 (b) an agency, board, commission, council, institution member, or employee of the
17716 legislative branch of state government;
- 17717 (c) a county, city, town, regional governing body, council, school district, special
17718 district, special service district, or municipal corporation, board, department,
17719 commission, council, agency, or any member or employee of them;
- 17720 (d) any other body that is created by state or local authority, or that is primarily funded
17721 by or through state or local authority, or any member or employee of that body;
- 17722 (e) a law enforcement agency or any member or employee of a law enforcement agency;
17723 and
- 17724 (f) the judiciary and any member or employee of the judiciary.

17725 ~~[(12)]~~ (13) "Public entity" means a department, division, board, council, committee,
17726 institution, office, bureau, or other similar administrative unit of the executive branch of
17727 state government.

17728 ~~[(13)]~~ (14) "Public entity employee" means an employee of a public entity.

17729 ~~[(14)]~~ (15) "Retaliatory action" means the same as that term is defined in Section 67-19a-101.

17730 ~~[(15) "State institution of higher education" means the same as that term is defined in
17731 Section 53B-3-102.]~~

17732 (16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16,
17733 Utah Public Officers' and Employees' Ethics Act.

17734 Section 179. Section **67-21-3** is amended to read:

17735 **67-21-3 (Effective upon governor's approval). Reporting of governmental waste**
17736 **or violations of law -- Employer action -- Exceptions.**

17737 (1)(a) An employer may not take retaliatory action against an employee because the
17738 employee, or a person authorized to act on behalf of the employee, communicates in
17739 good faith:

- 17740 (i) the waste or misuse of public funds, property, or manpower;
- 17741 (ii) a violation or suspected violation of a law, rule, or regulation adopted under the
17742 law of this state, a political subdivision of this state, or any recognized entity of

- 17743 the United States; or
- 17744 (iii) as it relates to a state government employer:
- 17745 (A) gross mismanagement;
- 17746 (B) abuse of authority; or
- 17747 (C) unethical conduct.
- 17748 (b) For purposes of Subsection (1)(a), an employee is presumed to have communicated
- 17749 in good faith if the employee gives written notice or otherwise formally
- 17750 communicates the conduct described in Subsection (1)(a) to:
- 17751 (i) a person in authority over the person alleged to have engaged in the conduct
- 17752 described in Subsection (1)(a);
- 17753 (ii) the attorney general's office;
- 17754 (iii) law enforcement, if the conduct is criminal in nature;
- 17755 (iv) if the employee is a public entity employee, public body employee, legislative
- 17756 employee, or a judicial employee:
- 17757 (A) the state auditor's office;
- 17758 (B) the president of the Senate;
- 17759 (C) the speaker of the House of Representatives;
- 17760 (D) the Office of Legislative Auditor General;
- 17761 (E) the governor's office;
- 17762 (F) the state court administrator; or
- 17763 (G) the Division of Finance;
- 17764 (v) if the employee is a public entity employee, but not an employee of ~~[a-state]~~ an
- 17765 institution of higher education, the director of the Division of Purchasing and
- 17766 General Services;
- 17767 (vi) if the employee is a political subdivision employee:
- 17768 (A) the legislative body, or a member of the legislative body, of the political
- 17769 subdivision;
- 17770 (B) the governing body, or a member of the governing body, of the political
- 17771 subdivision;
- 17772 (C) the top executive of the political subdivision; or
- 17773 (D) any government official with authority to audit the political subdivision or the
- 17774 applicable part of the political subdivision; or
- 17775 (vii) if the employee is an employee of ~~[a-state]~~ an institution of higher education:
- 17776 (A) the Utah Board of Higher Education or a member of the Utah Board of Higher

- 17777 Education;
- 17778 (B) the commissioner of higher education;
- 17779 (C) the president of the [state-]institution of higher education where the employee
- 17780 is employed; or
- 17781 (D) the entity that conducts audits of the [state-]institution of higher education
- 17782 where the employee is employed.
- 17783 (c) The presumption described in Subsection (1)(b) may be rebutted by showing that the
- 17784 employee knew or reasonably ought to have known that the report is malicious, false,
- 17785 or frivolous.
- 17786 (2) An employer may not take retaliatory action against an employee because an employee
- 17787 participates or gives information in an investigation, hearing, court proceeding,
- 17788 legislative or other inquiry, or other form of administrative review held by the public
- 17789 body.
- 17790 (3) An employer may not take retaliatory action against an employee because the employee
- 17791 has objected to or refused to carry out a directive that the employee reasonably believes
- 17792 violates a law of this state, a political subdivision of this state, or the United States, or a
- 17793 rule or regulation adopted under the authority of the laws of this state, a political
- 17794 subdivision of this state, or the United States.
- 17795 (4) An employer may not implement rules or policies that unreasonably restrict an
- 17796 employee's ability to document:
- 17797 (a) the waste or misuse of public funds, property, or manpower;
- 17798 (b) a violation or suspected violation of any law, rule, or regulation; or
- 17799 (c) as it relates to a state government employer:
- 17800 (i) gross mismanagement;
- 17801 (ii) abuse of authority; or
- 17802 (iii) unethical conduct.
- 17803 Section 180. Section **67-21-3.7** is amended to read:
- 17804 **67-21-3.7 (Effective upon governor's approval). Administrative review for**
- 17805 **institution of higher education employees.**
- 17806 (1)(a) As used in this section, "independent personnel board" means a board where no
- 17807 member of the board:
- 17808 (i) is in the same department as the complainant;
- 17809 (ii) is a supervisor of the complainant; or
- 17810 (iii) has a conflict of interest in relation to the complainant or an allegation made in

- 17811 the complaint.
- 17812 (b) [~~A state~~] An institution of higher education shall adopt a policy to establish an
- 17813 independent personnel board to hear and take action on a complaint alleging
- 17814 retaliatory action.
- 17815 (c) The policy described in Subsection (1)(b) shall include:
- 17816 (i) procedures for filing a complaint and conducting a hearing; and
- 17817 (ii) a burden of proof on the employer to establish by substantial evidence that the
- 17818 employer's action was justified by reasons unrelated to the employee's good faith
- 17819 actions under Section 67-21-3.
- 17820 (2)(a) An employee of [~~a state~~] an institution of higher education may file a complaint
- 17821 with the independent personnel board described in Subsection (1)(b) alleging
- 17822 retaliatory action.
- 17823 (b) An independent personnel board that receives a complaint under Subsection (2)(a)
- 17824 shall hear the matter, resolve the complaint, and take action under Subsection (3)
- 17825 within the later of:
- 17826 (i) 30 days after the day on which the employee files the complaint; or
- 17827 (ii) a longer period of time, not to exceed 30 additional days, if the employee and the
- 17828 independent personnel board mutually agree on the longer time period.
- 17829 (3) If an independent personnel board finds that retaliatory action is taken in violation of the
- 17830 policy described in Subsection (1)(b), the independent personnel board may order, or
- 17831 recommend to a final decision maker:
- 17832 (a) reinstatement of the employee at the same level as before the retaliatory action;
- 17833 (b) the payment of back wages;
- 17834 (c) full reinstatement of fringe benefits;
- 17835 (d) full reinstatement of seniority rights; or
- 17836 (e) if the retaliatory action includes failure to promote, as described in Subsection
- 17837 67-19a-101(11)(d), a pay raise that results in the employee receiving the pay that the
- 17838 employee would have received if the person had been promoted.
- 17839 (4) A final decision maker who receives a recommendation under Subsection (3) shall
- 17840 render a decision and enter an order within seven days after the day on which the final
- 17841 decision maker receives the recommendation.
- 17842 Section 181. Section **67-21-4** is amended to read:
- 17843 **67-21-4 (Effective upon governor's approval). Choice of forum -- Remedies for**
- 17844 **employee bringing action -- Proof required.**

(1)(a) Except as provided in Subsection (1)(b) or (d), and subject to Subsections (1)(d) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(b) Except as provided in Subsection (1)(d):

(i) an employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6:

(A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

(B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies; and

(ii) an employee of ~~a state~~ an institution of higher education:

(A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

(B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.

(c) Except as provided in Subsection (1)(d), a public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:

(i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or

(ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(d)(i) A claimant may bring an action after the 180-day limit described in this Subsection (1) if:

(A) the claimant originally brought the action within the 180-day time limit;

(B) the action described in Subsection (1)(d)(i)(A) failed or was dismissed for a reason other than on the merits; and

(C) the claimant brings the new action within 180 days after the day on which the claimant originally brought the action under Subsection (1)(d)(i)(A).

(ii) A claimant may commence a new action under this Subsection (1)(d) only once.

(e) A public entity employee who files a grievance under Subsection (1)(d)(i):

(i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;

(ii) may seek a remedy described in Subsection 67-21-3.5(2); and

(iii) waives the right to seek a remedy or a type of damages not included in

Subsection 67-21-3.5(2).

(f) A public entity employee who files a civil action under Subsection (1)(d)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.

(2) An employee who brings a civil action under this section shall bring the action in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has the person's principal place of business.

(3)(a) An employee who brings an action under this section has the burden of proving by a preponderance of the evidence that the employee, in good faith, engaged in protected reporting and suffered a retaliatory action.

(b) If the employee satisfies the burden described in Subsection (3)(a), the employer has the burden of proving by substantial evidence that the employer's action was justified.

(c) If the employer satisfies the burden described in Subsection (3)(b), the employee has the burden of proving by a preponderance of the evidence that the employer's justification is pretextual.

Section 182. Section **67-27-106** is amended to read:

67-27-106 (Effective upon governor's approval). Reasonable accommodations for government employees.

(1) As used in this section:

(a) "Confidential information" means any:

(i) information related to an employee's request under Subsection (2); or

(ii) record created under Subsection (3) or (4).

(b) "Conscience" means a sincerely held belief as to the rightness or wrongness of an action or inaction.

(c)(i) "Employee" means an individual employed by a governmental entity.

(ii) "Employee" does not include:

(A) an elected official;

(B) an individual employed by the Legislature; or

(C) an individual who is appointed or employed to be on an elected official's personal staff to assist the elected official in fulfilling the elected official's duties.

- (d) "First responder" means:
- (i) a law enforcement officer, as that term is defined in Section 53-13-103;
 - (ii) an emergency medical technician, as that term is defined in Section 53-2e-101;
 - (iii) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;
 - (iv) a paramedic, as that term is defined in Section 53-2e-101;
 - (v) a firefighter, as that term is defined in Section ~~[53B-8e-102]~~ 53H-11-306; or
 - (vi) a dispatcher, as that term is defined in Section 53-6-102.
- (e) "Governmental entity" means:
- (i) the state;
 - (ii) a political subdivision of the state, including a county, city, town, school district, special district, institution of higher education, or special service district; or
 - (iii) an entity created by the state, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.
- (f) "Retaliatory action" means any of the following actions taken by a governmental entity against an employee as a result of the employee filing a request under Subsection (2):
- (i) a dismissal;
 - (ii) a reduction of compensation;
 - (iii) a failure to increase compensation by an amount that the employee is otherwise entitled to or was promised;
 - (iv) a failure to promote if the employee would otherwise be promoted; or
 - (v) a threat to take an action described in Subsections (1)(f)(i) through (iv).
- (g) "Task" means a specific job, duty, or function.
- (h) "Undue hardship" means a substantial burden, privation, or adversity on a governmental entity that would result from granting an employee's request to be relieved from performing a certain task when considering all relevant factors, including:
- (i) the practical impact on the governmental entity in light of the nature, size, and operating cost of the governmental entity;
 - (ii) the disruption of the governmental entity's operations;
 - (iii) the nature of the employee's duties;
 - (iv) the number of employees the governmental entity will be required to grant a request to if the governmental entity grants the employee's request;

17947 (v) the type of workplace; and

17948 (vi) the number of requests by the employee in the preceding 12 months from the day
17949 on which the employee submitted the request.

17950 (2)(a) Except as provided in Subsection (2)(b), a governmental entity may not deny an
17951 employee's reasonable request to be relieved from performing a certain task if:

17952 (i) performing the task would conflict with the employee's sincerely held religious
17953 beliefs or conscience;

17954 (ii) the employee has complied with the requirements of Subsection (3); and

17955 (iii) relieving the employee from the task would not impose an undue hardship on the
17956 governmental entity.

17957 (b) A governmental entity is not required to grant an employee's request under
17958 Subsection (2)(a) if:

17959 (i) the request is to be relieved from performing a task that is part of training or safety
17960 instructions directly related to the employee's employment;

17961 (ii) granting the request would result in a deficit in the amount of work for which the
17962 employee is compensated;

17963 (iii) granting the request would create a conflict with an existing legal obligation and
17964 the governmental entity cannot avoid the conflict if the governmental entity grants
17965 the employee's request under Subsection (3);

17966 (iv) the employee is a first responder and the request by the employee under
17967 Subsection (2)(a) is to be relieved from performing a task that involves protecting
17968 the safety of the public; or

17969 (v) the employee's asserted religious beliefs or conscience described in Subsection
17970 (2)(a)(i) is being asserted for an improper purpose.

17971 (3) Except as provided in Subsection (3)(b), an employee seeking to be relieved from
17972 performing a certain task under Subsection (2) shall:

17973 (a)(i) as soon as practicable but not more than two days after the day on which the
17974 employee received the assignment to perform the task, submit a written request to
17975 the employee's supervisor providing an explanation as to why the task would
17976 conflict with the employee's sincerely held religious beliefs or conscience; or

17977 (ii) if the employee receives the assignment to perform the task within two days after
17978 the day on which the employee received the assignment, orally or in writing
17979 immediately request to be relieved from performing the task; and

17980 (b) provide the governmental entity with a reasonable opportunity to grant the

employee's request or otherwise address the employee's concerns.

(4)(a) Except as provided in Subsection (4)(c), a governmental entity that receives a request under Subsection (3) shall respond to the request as soon as practicable but at least five days before the day on which the certain task is required to be performed.

(b) If a governmental entity denies an employee's request submitted as described in Subsection (3), the governmental entity shall include in the response required under Subsection (4)(a):

(i) an explanation of the governmental entity's decision and why:

(A) granting the request would impose an undue hardship on the governmental entity; or

(B) the governmental entity is not required to grant the employee's request for a reason described in Subsection (2)(b); and

(ii) that the employee may seek redress in a court as described in Subsection (6) if the employee has exhausted the internal process allowing the governmental entity to address the employee's concerns under Subsection (3)(b).

(c) An employee and governmental entity may agree in writing to waive or extend the time limit described in Subsection (4)(a).

(5)(a) A governmental entity may adopt a policy detailing the requirements of this section.

(b) A policy adopted under Subsection (5)(a) shall:

(i) provide the governmental entity's employees a process for making a request under this section;

(ii) designate an individual to receive an employee request described in Subsection (3);

(iii) outline the information an employee is required to provide to the governmental entity in a request described in Subsection (3);

(iv) describe the process the employee is required to undertake to allow the governmental entity a reasonable opportunity to grant the employee's request or otherwise address the employee's concerns under Subsection (3)(b); and

(v) outline the process the governmental entity will use to evaluate a request received under Subsection (3) in determining if the request will impose an undue hardship on the governmental entity.

(c) A governmental entity establishing a policy under this Subsection (5) shall ensure that:

(i) the governmental entity's employees receive notice of the policy and access to a

- 18015 copy of the policy when the policy is adopted or when an employee begins
18016 working for the governmental entity, whichever occurs first; and
- 18017 (ii) if the governmental agency receives a request under Subsection (3), the
18018 governmental entity includes a reference to the governmental entity's policy in the
18019 governmental entity's response.
- 18020 (6)(a) An employee has a right of action against the governmental entity that employs
18021 the employee if:
- 18022 (i) the employee has complied with Subsection (3) in good faith;
- 18023 (ii) the employee has complied with any policy created under Subsection (5) after
18024 receiving notice and a reference of the policy as described in Subsection (5)(c);
- 18025 (iii) the employee's asserted religious beliefs or conscience described in Subsection
18026 (2)(a)(i) is not asserted for an improper purpose; and
- 18027 (iv)(A) granting the request would not have imposed an undue hardship on the
18028 governmental entity; or
- 18029 (B) the governmental entity cannot meet an exception described in Subsection
18030 (2)(b).
- 18031 (b) An employee seeking to assert a right of action under this section shall bring the
18032 action in a court within 180 calendar days after the day on which the employee
18033 received the governmental entity's response described in Subsection (4).
- 18034 (c) If an employee establishes, by a preponderance of the evidence, that the employee
18035 meets the requirements described in Subsection (6)(a), the court:
- 18036 (i) shall grant the employee relief by:
- 18037 (A) issuing an injunction ordering the governmental entity to relieve the employee
18038 from the specific task if the task is still to be performed; or
- 18039 (B) ordering the governmental entity to reinstate or rehire the employee, with an
18040 award of back pay, if the employee was constructively discharged, demoted, or
18041 terminated as a direct result of the governmental entity's violation of
18042 Subsection (2); and
- 18043 (ii) may award to the employee reasonable attorney fees, and court costs.
- 18044 (7) The classification of an employee's confidential information is governed by Title 63G,
18045 Chapter 2, Government Records Access and Management Act.
- 18046 (8) A governmental entity may not take retaliatory action against an employee for
18047 submitting a meritorious request under Subsection (3).
- 18048 (9) Nothing in this section:

(a) limits the employee's right to bring any other claim the employee may have against the governmental entity; or

(b) prevents a governmental entity from implementing a policy required by state or federal law.

Section 183. Section **67-27-107** is amended to read:

67-27-107 (Effective upon governor's approval). Prohibition on the use of certain submissions by governmental employers -- Exceptions.

(1) As used in this section:

(a)(i) "Governmental employer" means any department, division, agency, commission, board, council, committee, authority, municipality, county, political subdivision, or any other institution of the state.

(ii) "Governmental employer" does not mean a local education agency or institution of higher education.

(b)(i) "Prohibited submission" means a submission, statement, or document that requires an individual to articulate the individual's position, view, contribution, effort, or experience regarding a policy, program, or initiative that promotes differential treatment based on an individual's personal identity characteristics, as that term is defined in Section [~~53B-1-118~~] 53H-1-504.

(ii) "Prohibited submission" includes a submission, statement, or document that relates to a policy, program, or initiative regarding:

(A) anti-racism;

(B) bias;

(C) critical race theory;

(D) implicit bias;

(E) intersectionality;

(F) prohibited discriminatory practice, as that term is defined in Section [~~53B-1-118~~] 53H-1-504; or

(G) racial privilege.

(iii) "Prohibited submission" does not include a submission, statement, or document for an employment position if the submission, statement, or document relates to a bona fide occupational qualification for the position.

(2) Except as provided in Subsection (4), a governmental employer may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment; or

(b) admissions and aid, including:

(i) admission to any state program or course;

(ii) financial or other forms of state-administered aid or assistance; or

(iii) other benefits from the governmental employer for which an individual is eligible.

(3) A governmental employer may not grant any form of preferential consideration to an individual who, with or without solicitation from the governmental employer, provides a prohibited submission for any action described in Subsection (2).

(4) If federal law requires a governmental employer to accept or require a prohibited submission, the governmental employer:

(a) may accept the prohibited submission only to the extent required under federal law; and

(b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.

(5) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Section 184. Section **67-27-108** is amended to read:

67-27-108 (Effective upon governor's approval). Prohibition on the use of certain training by governmental employers -- Exceptions.

(1) As used in this section:

(a) "Governmental employer" means the same as that term is defined in Section

67-27-107.

(b)(i) "Prohibited training" means a mandatory instructional program and related materials that a governmental employer requires the governmental employer's current or prospective employees to attend that promote prohibited discriminatory practices as that term is defined in Section ~~[53B-1-118]~~ 53H-1-504.

(ii) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(2) A governmental employer may not require prohibited training.

(3) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Section 185. Section **67-27-109** is amended to read:

67-27-109 (Effective upon governor's approval). Prohibited discriminatory practices -- Restrictions -- Reporting.

(1) As used in this section:

(a) "Executive agency director" means the executive agency director of an executive department agency who, at the direction of the governor, carries out state business.

(b) "Governmental employer" means the same as that term is defined in Section 67-27-107.

(c) "Personal identity characteristics" means the same as that term is defined in Section ~~[53B-1-118]~~ 53H-1-504.

(d) "Prohibited discriminatory practice" means the same as that term is defined in Section ~~[53B-1-118]~~ 53H-1-504.

(2)(a) This section does not apply to a federal grant or program that would otherwise require a governmental employer to engage in a prohibited discriminatory practice if the grant or program has been reviewed and approved by the governmental employer's executive director, legislative body, or governing body, as that term is defined in Section 10-1-104.

(b) A governmental employer's executive director, legislative body, or governing body shall report the reviewed and approved federal grant or program under Subsection

(2)(a) to the Executive Appropriations Committee.

(3) A governmental employer may not engage in prohibited discriminatory practices.

(4) Nothing in this section limits or prohibits a governmental employer from:

(a) as required or permitted by state law:

(i) establishing or maintaining an office, division, or employment position to implement, develop, plan, or promote practices relating to personal identity characteristics if the office, division, or employment position is not engaging in prohibited discriminatory practices; or

(ii) employing or assigning an employee or a third-party whose duties for governmental employer include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to personal identity characteristics if the employee or the third-party is not engaging in prohibited discriminatory practices;

(b) establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment; or

(c) establishing policies that are necessary to comply with state law enacted on or before July 1, 2024.

(5)(a) Beginning on July 1, 2024, each executive agency director shall conduct a thorough review of existing agency programs and offices to determine if the program or office is in compliance with Subsection (3).

(b) On or before August 1, 2025, each executive agency director shall report on the compliance of agency programs and offices under Subsection (5)(a) to the governor.

(c) The governor shall provide the reports under Subsection (5)(b) to:

(i) the Government Operations Interim Committee at or before the November 2025, interim committee meeting; and

(ii) the Legislative Management Committee upon request.

Section 186. Section **71A-1-201** is amended to read:

71A-1-201 (Effective upon governor's approval). Department of Veterans and Military Affairs -- Creation -- Appointment of executive director -- Department responsibilities.

(1) There is created the Department of Veterans and Military Affairs.

(2) The governor shall appoint an executive director for the department who is subject to Senate confirmation.

(3) The executive director shall be a veteran.

(4) The department shall:

(a) conduct and supervise all veteran and military affairs activities as provided in this title;

- (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;
- (c) in accordance with Section 41-1a-418:
- (i) determine which campaign or combat theater awards are eligible for a special group license plate;
 - (ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and
 - (iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;
- (d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;
- (e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and military organizations on benefits they are entitled to;
- (f) assist veterans, service members, and their families in applying for benefits and services;
- (g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;
- (h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;
- (i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;
- (j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the National Guard;
- (k) develop and maintain relationships with military-related organizations in Utah;
- (l) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533;
- (m) enforce a food delivery dead zone as described in Section 13-80-201;
- (n) work in conjunction with the Utah Homeless Services Board to create best practices for helping veterans, as that term is defined in Section 68-3-12.5, avoid homelessness;
- (o) provide services and benefits directly or indirectly to service members, veterans, and families of service members and veterans, including services and benefits related to

claims, health care, employment, education, mental wellness, counseling, business, housing, recognition, camaraderie, and other functions; and

(p) serve as the State Approving Agency under United States Code, Title 38, Veterans Benefits.

(5)(a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.

(b) The department may award a grant described in Subsection (5)(a) to:

(i) an institution of higher education listed in Section [53B-1-102] 53H-1-102;

(ii) a nonprofit organization involved in veterans or military-related activities; or

(iii) a political subdivision of the state.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:

(i) the form and process for submitting an application to the department;

(ii) the method and criteria for selecting a grant recipient;

(iii) the method and formula for determining a grant amount; and

(iv) the reporting requirements of a grant recipient.

(6)(a) The department may:

(i) receive gifts, contributions, and donations to support service members, veterans, families of service members and veterans, and military missions, including tangible objects and real property, if the department uses the gifts, contributions, and donations for the benefit of, or in connection with, service members, veterans, families of service members and veterans, or military missions; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules related to the administration of gifts, contributions, and donations described in Subsection (6)(a).

(b) A gift, contribution, or donation received by the department as described in Subsection (6)(a), does not revert to the General Fund and is considered non-lapsing funds.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:

(a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (4)(l); and

(b) criteria to evaluate whether a proposed land use is compatible with military

operations.

- (8) Nothing in this chapter alters or preempts any provisions of Title 39A, National Guard and Militia Act, as specifically related to the National Guard.

Section 187. Section **71A-9-101** is amended to read:

71A-9-101 (Effective upon governor's approval). Definitions.

As used in this chapter, ["state-] "institution of higher education" means an institution described in Section [~~53B-2-101~~] 53H-1-102 or any other university or college that is established and maintained by the state.

Section 188. Section **71A-9-102** is amended to read:

71A-9-102 (Effective upon governor's approval). Military installation ability to enter into an intergovernmental support agreement.

- (1) A state agency, local municipality, special service district, or [state] an institution of higher education may enter into an intergovernmental support agreement with a military installation or entity, including the National Guard, to provide support services to the military installation or entity in accordance with the agreement.

- (2) Copies of the agreement described in Subsection (1) shall be filed with the department.

Section 189. Section **72-2-205** is amended to read:

72-2-205 (Effective upon governor's approval). Loan contracts of state agencies.

- (1)(a) Notwithstanding Sections [~~53B-21-113~~] 53H-9-314 and 63A-1-112, a state agency may obtain an infrastructure loan.

- (b) A state agency may contract to repay an infrastructure loan from the money which is appropriated to the agency and may pledge all or any portion of the money to repay the loan.

- (c) A state agency's infrastructure loan may not constitute a debt of the state or lending the credit of the state within the meaning of any constitutional or statutory limitation.

- (2) The terms of an infrastructure loan contract shall bind the state and a state agency, and the state agency shall unconditionally repay the loan from the money the agency has pledged under the terms of the loan contract.

Section 190. Section **75A-8-110** is amended to read:

75A-8-110 (Effective upon governor's approval). Manner of creating custodial property and effecting transfer -- Designation of initial custodian -- Control.

- (1) Custodial property is created and a transfer is made when:

- (a) an uncertificated security or a certificated security in registered form is either:

- (i) registered in the name of the transferor, an adult other than the transferor, or a

- 18287 trust company, followed in substance by the words: "as custodian for
18288 (name of minor) under the Uniform Transfers to Minors Act"; or
18289 (ii) delivered if in certificated form, or any document necessary for the transfer of an
18290 uncertificated security is delivered, together with any necessary endorsement, to
18291 an adult other than the transferor or to a trust company as custodian, accompanied
18292 by an instrument in substantially the form in Subsection (2);
- 18293 (b) money is paid or delivered, or a security held in the name of a broker, financial
18294 institution, or its nominee is transferred to a broker, or financial institution for credit
18295 to an account in the name of the transferor, an adult other than the transferor, or a
18296 trust company, followed in substance by the words: "as custodian for
18297 (name of minor) under the Uniform Transfers to Minors Act";
- 18298 (c) the ownership of a life or endowment insurance policy or annuity contract is either:
18299 (i) registered with the issuer in the name of the transferor, an adult other than the
18300 transferor, or a trust company, followed in substance by the words: "as custodian
18301 for (name of minor) under the Uniform Transfers to Minors Act"; or
18302 (ii) assigned in a writing delivered to an adult other than the transferor or to a trust
18303 company whose name in the assignment is followed in substance by the words:
18304 "as custodian for (name of minor) under the Uniform Transfers to
18305 Minors Act";
- 18306 (d) an irrevocable exercise of a power of appointment or an irrevocable present right to
18307 future payment under a contract is the subject of a written notification delivered to
18308 the payor, issuer, or other obligor that the right is transferred to the transferor, an
18309 adult other than the transferor, or a trust company, whose name in the notification is
18310 followed in substance by the words: "as custodian for (name of minor)
18311 under the Uniform Transfers to Minors Act";
- 18312 (e) an interest in real property is recorded in the name of the transferor, an adult other
18313 than the transferor, or a trust company, followed in substance by the words: "as
18314 custodian for (name of minor) under the Uniform Transfers to Minors Act";
- 18315 (f) a certificate of title issued by a department or agency of a state or of the United States
18316 which evidences title to tangible personal property is either:
18317 (i) issued in the name of the transferor, an adult other than the transferor, or a trust
18318 company, followed in substance by the words: "as custodian for (name
18319 of minor) under the Uniform Transfers to Minors Act"; or
18320 (ii) delivered to an adult other than the transferor or to a trust company, endorsed to

- 18321 that person followed in substance by the words: "as custodian for (name
18322 of minor) under the Uniform Transfers to Minors Act";
- 18323 (g) an interest in any property not described in Subsections (1)(a) through (f) is
18324 transferred to an adult other than the transferor or to a trust company by a written
18325 instrument in substantially the form set forth in Subsection (2); or
- 18326 (h) contributions are made into a custodial account at the Utah Educational Savings Plan
18327 in accordance with [~~Title 53B, Chapter 8a, Utah Educational Savings Plan~~] Title 53H,
18328 Chapter 10, Utah Educational Savings.
- 18329 (2) An instrument in the following form satisfies the requirements of Subsections (1)(a)(ii) and
18330 (1)(g): "Transfer Under the Uniform Transfers to Minors Act
18331 I, (name of transferor or name and representative capacity if a fiduciary)
18332 hereby transfer to (name of custodian), as custodian for (name of minor)
18333 under the Uniform Transfers to Minors Act, the following: (insert a description of the custodial
18334 property sufficient to identify it).
18335 Dated:
18336
18337 (Signature)
18338 (name of custodian) acknowledges receipt of the property described above as
18339 custodian for the minor named above under the Uniform Transfers to Minors Act.
18340 Dated:
18341
18342 (Signature of Custodian)"
- 18343 (3) A transferor shall place the custodian in control of the custodial property as soon as
18344 practicable.
- 18345 Section 191. Section **76-5-802** is amended to read:
18346 **76-5-802 (Effective upon governor's approval). Abuse or desecration of a dead**
18347 **human body.**
- 18348 (1)(a) As used in this section, "sexual penetration" means the penetration, however
18349 slight, of the genital or anal opening by any object, substance, instrument, or device,
18350 including a part of the human body, or penetration involving the genitals of the actor
18351 and the mouth of a dead human body.
- 18352 (b) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
- 18353 (2) An actor commits abuse or desecration of a dead human body if the actor intentionally
18354 and unlawfully:

- 18355 (a) disturbs, moves, removes, conceals, or destroys a dead human body or any part of the
18356 dead human body;
- 18357 (b) disinters a buried or otherwise interred dead human body, without authority of a
18358 court order;
- 18359 (c) dismembers a dead human body to any extent, or damages or detaches any part or
18360 portion of a dead human body; or
- 18361 (d) commits or attempts to commit upon any dead human body any act of sexual
18362 penetration, regardless of the sex of the actor and of the dead human body.
- 18363 (3) A violation of Subsection (2) is a third degree felony.
- 18364 (4) An actor does not violate this section if when the actor directs or carries out procedures
18365 regarding a dead human body, the actor complies with:
- 18366 (a) Title 9, Chapter 8a, Part 3, Antiquities;
- 18367 (b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;
- 18368 (c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- 18369 (d) ~~[Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes]~~ Section
18370 53H-4-203;
- 18371 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
- 18372 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice
18373 medicine.
- 18374 (5) For purposes of this section, a dead human body includes any part of a human body in
18375 any stage of decomposition, including ancient human remains.
- 18376 Section 192. Section **76-5-803** is amended to read:
- 18377 **76-5-803 (Effective upon governor's approval). Failure to report the finding of a**
18378 **dead human body.**
- 18379 (1) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.
- 18380 (2) An actor commits failure to report the finding of a dead human body if the actor:
- 18381 (a) finds a dead human body; and
- 18382 (b) intentionally fails to report the finding of the dead human body to a local law
18383 enforcement agency.
- 18384 (3) A violation of Subsection (2) is a class B misdemeanor.
- 18385 (4) An actor does not violate this section if when the actor directs or carries out procedures
18386 regarding a dead human body, the actor complies with:
- 18387 (a) Title 9, Chapter 8a, Part 3, Antiquities;
- 18388 (b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

- (c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;
- (d) [~~Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes~~] Section 53H-4-203;
- (e) Title 58, Chapter 9, Funeral Services Licensing Act; or
- (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

- (5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Section 193. Section **76-8-311.1** is amended to read:

76-8-311.1 (Effective upon governor's approval). Establishment of secure areas -- Items prohibited -- References to penalty provisions.

- (1)(a) As used in this section:

- (i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.
- (ii) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.
- (iii) "Explosive" means the same as the term "explosive, chemical, or incendiary device" defined in Section 76-15-210.
- (iv) "Firearm" means the same as that term is defined in Section 76-11-101.
- (v) "Law enforcement facility" means a facility that is owned, leased, or operated by a law enforcement agency.
- (vi) "Mental health facility" means the same as that term is defined in Section 26B-5-301.
- (vii)(A) "Secure area" means an area created under this section into which certain individuals are restricted from transporting a firearm or other dangerous weapon, ammunition, or explosive.
- (B) "Secure area" does not include any area normally accessible to the public.

- (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

- (2)(a) The State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm or other dangerous weapon, ammunition, or explosive.

- (b) This section applies to:

- (i) a higher education secure area hearing room established in accordance with Section [~~53B-3-103~~] 53H-3-902; and
- (ii) a secure area established by the Judicial Council in accordance with Section

18423 78A-2-203.

18424 (3) An entity that creates a secure area under this section shall ensure that at least one notice
18425 is prominently displayed at each entrance to the secure area in which a firearm,
18426 ammunition, dangerous weapon, or explosive is restricted.

18427 (4)(a) An entity that creates a secure area under this section shall provide a secure
18428 weapons storage area so that an individual entering the secure area may store the
18429 individual's weapon before entering the secure area.

18430 (b) The entity operating the facility shall be responsible for a weapon while the weapon
18431 is stored in the storage area described in Subsection (4)(a).

18432 (5)(a) An actor who transports a firearm or other dangerous weapon or ammunition into
18433 a secure area created under this section or a higher education secure area hearing
18434 room created under this section may be punished under Section 76-8-311.2.

18435 (b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an
18436 explosive in a secure area or a higher education secure area hearing room created
18437 under this section may be punished under Section 76-15-210.

18438 (c) It is a defense to a prosecution related to this section that the actor acted in
18439 conformity with the facility's rule or policy established pursuant to this section.

18440 Section 194. Section **76-8-703** is amended to read:

18441 **76-8-703 (Effective upon governor's approval). Criminal trespass upon an**
18442 **institution of higher education.**

18443 (1)(a) As used in this section:

18444 (i) "Chief administrative officer" means the same as that term is defined in Section [
18445 ~~53B-20-107~~] 53H-3-304.

18446 (ii) "Enters" means intrusion of the entire body.

18447 (iii) "Institution of higher education" means the same as that term is defined in
18448 Section [~~53B-20-107~~] 53H-1-101.

18449 (b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

18450 (2) An actor commits criminal trespass upon an institution of higher education if the actor
18451 enters or remains on property that is owned, operated, or controlled by an institution of
18452 higher education:

18453 (a) after being ordered to leave by the chief administrative officer; or

18454 (b) without authorization if notice against entry or remaining has been given by:

18455 (i) personal communication to the person by the chief administrative officer or a
18456 person with apparent authority to act for the institution of higher education;

- (ii) the posting of signs reasonably likely to come to the attention of a trespasser;
- (iii) fencing or other enclosure obviously designed to exclude a trespasser; or
- (iv) a current order of suspension or expulsion.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted two or more times of a violation of Subsection (2).

(4) The mere carrying or possession of a firearm on the campus of ~~[a state]~~ an institution of higher education, as defined in Section ~~[53B-3-102]~~ 53H-1-101, does not warrant an order to leave under Subsection (2)(a) if the individual carrying or possessing the firearm is otherwise complying with all state laws regulating the possession and use of a firearm.

(5) If an employee or student of an institution of higher education is ordered to leave under Subsection (2)(a) or receives a notice against entry or remaining under Subsection (2)(b), the institution of higher education shall afford the employee or student the process required by the institution of higher education's rules and regulations.

Section 195. Section **76-8-705** is amended to read:

76-8-705 (Effective upon governor's approval). Willful interference with lawful activities of students or faculty.

(1)(a) As used in this section, "institution" means the same as that term is defined in Section ~~[53B-20-107]~~ 53H-1-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits willful interference with lawful activities of students or faculty if the actor, while on property that is owned, operated, or controlled by an institution, willfully:

(a) denies to a student, school official, employee, or invitee lawful:

- (i) freedom of movement;
- (ii) use of the property or facilities; or
- (iii) ingress or egress to the institution's physical facilities;

(b) impedes a faculty or staff member of the institution in the lawful performance of the member's duties; or

(c) impedes a student of the institution in the lawful pursuit of the student's educational activities.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 196. Section **77-23e-102** is amended to read:

77-23e-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

- (1) "Department" means the Department of Public Safety, created in Section 53-1-103.
- (2) "Facial biometric data" means data derived from a measurement, pattern, contour, or other characteristic of an individual's face, either directly or from an image.
- (3)(a) "Facial recognition comparison" means the process of comparing an image or facial biometric data to an image database.
- (b) "Facial recognition comparison" does not include biometric surveillance information as that term is defined in Section 77-23d-102.
- (4)(a) "Facial recognition system" means a computer system that, for the purpose of attempting to determine the identity of an unknown individual, uses an algorithm to compare biometric data of the face of the unknown individual to facial biometric data of known individuals.
- (b) "Facial recognition system" does not include:
 - (i) a system described in Subsection (4)(a) that is available for use, free of charge, by the general public; or
 - (ii) a system a consumer uses for the consumer's private purposes.
- (5)(a) "Government entity" means:
 - (i) an executive department agency of the state;
 - (ii) the office of:
 - (A) the governor;
 - (B) the lieutenant governor;
 - (C) the state auditor;
 - (D) the attorney general; or
 - (E) the state treasurer;
 - (iii) the Board of Pardons and Parole;
 - (iv) the Board of Examiners;
 - (v) the National Guard;
 - (vi) the Career Service Review Office;
 - (vii) the State Board of Education;
 - (viii) the Utah Board of Higher Education;
 - (ix) the State Archives;
 - (x) the Office of the Legislative Auditor General;
 - (xi) the Office of Legislative Fiscal Analyst;

- (xii) the Office of Legislative Research and General Counsel;
- (xiii) the Legislature;
- (xiv) a legislative committee of the Legislature;
- (xv) a court, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;
- (xvi) ~~[a-state-]~~ an institution of higher education as that term is defined in Section [~~53B-3-102~~] 53H-1-101;
- (xvii) an entity within the system of public education that receives funding from the state; or
- (xviii) a political subdivision of the state as that term is defined in Section 63G-7-102.

(b) "Government entity" includes:

- (i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity described in Subsection (5)(a) that is funded or established by the government to carry out the public's business; or
- (ii) an individual acting as an agent of a government entity or acting on behalf of an entity described in this Subsection (5).

(6)(a) "Image database" means a database maintained by a government entity that contains images the government entity captures of an individual while the individual interacts with the government entity.

(b) "Image database" does not include publicly available information.

(7) "Law enforcement agency" means a public entity that exists primarily to prevent, detect, or prosecute crime or enforce criminal statutes or ordinances.

(8) "Trained employee" means an individual who is trained to make a facial recognition comparison and identification and who has completed implicit bias training.

Section 197. Section **77-38-203** is amended to read:

77-38-203 (Effective upon governor's approval). Definitions.

As used in this part:

(1) "Confidential communication" means information given to a sexual assault counselor by a victim and includes reports or working papers made in the course of the counseling relationship.

(2)(a) "Rape crisis and services center" means a nonprofit entity that assists victims of sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim

services provider as defined in Section ~~[53B-28-201]~~ 53H-14-401.

(3) "Sexual assault counselor" means an individual who:

(a) is employed by or volunteers at a rape crisis and services center;

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) is under the supervision of the director or designee of a rape crisis and services center.

(4) "Victim" means an individual who has experienced a sexual assault of whatever nature including incest and rape and requests counseling or assistance regarding the mental, physical, and emotional consequences of the sexual assault.

Section 198. Section **77-38-404** is amended to read:

77-38-404 (Effective upon governor's approval). Scope of part.

This part governs the disclosure of a confidential communication to a victim advocate, except that:

(1) if ~~[Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act]~~ Title 53H, Chapter 14, Part 4, Confidential Communications for Institutional Advocacy Services, applies, that part governs; and

(2) if Part 2, Confidential Communications for Sexual Assault Act, applies, that part governs.

Section 199. Section **79-3-102** is amended to read:

79-3-102 (Effective upon governor's approval). Definitions.

As used in this chapter:

(1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(2) "Board" means the Board of the Utah Geological Survey.

(3) "Collection" means a specimen and the associated records documenting the specimen and its recovery.

(4) "Critical paleontological resources" means vertebrate fossils and other exceptional fossils that are designated state paleontological landmarks as provided for in Section 79-3-505.

(5) "Curation" means:

(a) management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of

original collections or reproductions; and

(b) providing access to and facilities for studying collections.

(6) "Curation facility" is as defined in Section [~~53B-17-603~~] 53H-4-211.

(7) "Director" means the director of the survey.

(8) "Excavate" means the recovery of critical paleontological resources.

(9) "Museum" means the Utah Museum of Natural History.

(10) "Paleontological resources" means remains of prehistoric life pertaining to the natural history of the state.

(11) "Repository" is defined as provided in Section [~~53B-17-603~~] 53H-4-211.

(12) "School and institutional land grants" means the transfer of properties pursuant to Sections 6 and 8 of the Utah Enabling Act and Utah Constitution, Article XX.

(13) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(14) "Site" means any paleontological deposit or other location that is the source of a specimen.

(15) "Specimen" means remains of a critical paleontological nature found on or below the surface of the earth.

(16) "State Paleontological Register" means a register of paleontological sites and localities.

(17) "Survey" means the Utah Geological Survey.

Section 200. Section **79-3-503** is amended to read:

79-3-503 (Effective upon governor's approval). Ownership of collections and resources.

(1) Collections recovered from lands owned or controlled by the state or its subdivisions, except as provided in Subsection (2), shall be owned by the state.

(2) Collections recovered from school and institutional trust lands shall be owned by the respective trust.

(3) Paleontological resources, other than critical paleontological resources, recovered from school and institutional trust lands, shall be owned by the respective trust and shall be managed pursuant to statutory authority of the School and Institutional Trust Lands Administration.

(4) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated pursuant to Section [~~53B-17-603~~] 53H-4-211.

(5) Specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

Section 201. Section **79-6-106** is amended to read:

79-6-106 (Effective upon governor's approval). Hydrogen advisory council.

- (1) The department shall create a hydrogen advisory council within the office that consists of seven to nine members appointed by the executive director, in consultation with the director. The executive director shall appoint members with expertise in:
- (a) hydrogen energy in general;
 - (b) hydrogen project facilities;
 - (c) technology suppliers;
 - (d) hydrogen producers or processors;
 - (e) renewable and fossil based power generation industries; and
 - (f) fossil fuel based hydrogen feedstock providers.
- (2)(a) Except as required by Subsection (2)(b), a member shall serve a four-year term.
- (b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the hydrogen advisory council is appointed every two years.
- (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (3)(a) A majority of the members appointed under this section constitutes a quorum of the hydrogen advisory council.
- (b) The hydrogen advisory council shall determine:
- (i) the time and place of meetings; and
 - (ii) any other procedural matter not specified in this section.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) The office shall staff the hydrogen advisory council.
- (6) The hydrogen advisory council may:
- (a) develop hydrogen facts and figures that facilitate use of hydrogen fuel within the state;
 - (b) encourage cross-state cooperation with states that have hydrogen programs;
 - (c) work with state agencies, the private sector, and other stakeholders, such as environmental groups, to:

- 18661 (i) recommend realistic goals for hydrogen development that can be executed within
18662 realistic time frames; and
- 18663 (ii) educate, discuss, consult, and make recommendations in hydrogen related matters
18664 that benefit the state;
- 18665 (d) promote hydrogen research at [~~state institutions~~] an institution of higher education, as
18666 defined in Section [~~53B-3-102~~] 53H-1-101;
- 18667 (e) make recommendations regarding how to qualify for federal funding of hydrogen
18668 projects, including hydrogen related projects for:
- 18669 (i) the state;
- 18670 (ii) a local government;
- 18671 (iii) a privately commissioned project;
- 18672 (iv) an educational project;
- 18673 (v) scientific development; and
- 18674 (vi) engineering and novel technologies;
- 18675 (f) make recommendations related to the development of multiple feedstock or energy
18676 resources in the state such as wind, solar, hydroelectric, geothermal, coal, natural gas,
18677 oil, water, electrolysis, coal gasification, liquefaction, hydrogen storage, safety
18678 handling, compression, and transportation;
- 18679 (g) make recommendations to establish statewide safety protocols for production,
18680 transportation, and handling of hydrogen for both residential and commercial
18681 applications;
- 18682 (h) facilitate public events to raise the awareness of hydrogen and hydrogen related fuels
18683 within the state and how hydrogen can be advantageous to all forms of transportation,
18684 heat, and power generation;
- 18685 (i) review and make recommendations regarding legislation; and
- 18686 (j) make other recommendations to the director related to hydrogen development in the
18687 state.

18688 Section 202. Section **79-6-409** is amended to read:

18689 **79-6-409 (Effective upon governor's approval). Energy Education and**
18690 **Workforce Development Advisory Group established -- Energy education and workforce**
18691 **development programs.**

18692 (1) As used in this section:

- 18693 (a) "Advisory group" means the Energy Education and Workforce Development
18694 Advisory Group created in this section.

(b) "Core standards" means the science standards established by the state board as described in Section 53E-4-202.

(c) "Institution of higher education" means the same as that term is defined in Section [~~53B-1-102~~] 53H-1-101.

(2) Pursuant to Subsection 79-6-301(1)(h) and subject to legislative appropriations and other funding sources, the office shall establish the Energy Education and Workforce Development Advisory Group consisting of the following:

- (a) the director of the office, or the director's designee;
- (b) the director of the Division of Oil, Gas, and Mining, or the director's designee;
- (c) the state superintendent of public instruction, or the superintendent's designee from the State Board of Education elementary science team;
- (d) the state superintendent of public instruction, or the superintendent's designee from the State Board of Education secondary science team;
- (e) the commissioner of higher education, or the commissioner's designee from Talent Ready Utah;
- (f) the president of the Utah Rural Schools Association, or the president's designee;
- (g) the president of the Utah Science Teaching Association, or the president's designee;
- (h) the chief executive officer of the Utah Municipal Power Agency or the Utah Associated Municipal Power Systems, or the chief executive officer's designee;
- (i) the executive director of the Utah Rural Electric Cooperative Association, or the executive director's designee;
- (j) the president of the Utah Petroleum Association, or the president's designee; and
- (k) the president of the Utah Mining Association, or the president's designee.

(3) In consultation with the advisory group, the office shall:

- (a) develop and maintain energy education programs and curricula for kindergarten through grade 12 that:
 - (i) meet core standards;
 - (ii) align with the state energy policy described in Section 79-6-301;
 - (iii) are appropriate for each grade level; and
 - (iv) are available to school districts, charter schools, and the public for voluntary use;
- (b) develop and provide professional development training for educators that:
 - (i) promotes the use and appropriate deployment and teaching of the energy education programs and curricula developed under Subsection (3)(a);
 - (ii) builds fluency for educators with the energy education programs and curricula;

(iii) provides educators with opportunities and activities to receive renewal hours for professional licensure; and

(iv) complies with state educator licensure requirements; and

(c) develop energy-related workforce development programs and facilitate collaboration among institutions of higher education, elementary and secondary schools, and industry.

(4) The office may:

(a) include in the curricula other elements of the state energy policy to advance a comprehensive understanding of energy policy;

(b) contract with third-party curriculum development organizations to create the curricula based on guidance from the office and the advisory committee; and

(c) provide comment on the development of Utah science core standards.

(5) The professional development training provided to educators by the office may include:

(a) virtual or in-person classroom instruction;

(b) conferences;

(c) seminars; and

(d) site visits.

(6) An energy-related workforce development program described in Subsection (3)(c) shall:

(a) create expanded, multidisciplinary programs or stackable credential programs;

(b) prepare students for energy industry jobs; and

(c) promote policies consistent with the state energy policy described in Section 79-6-301.

(7) The advisory group's duties may include providing recommendations to the office regarding the development and implementation of:

(a) energy education programs and curricula in grades kindergarten through grade 12;

(b) professional development trainings for educators;

(c) energy related workforce development programs; and

(d) any potential comments to be submitted on the development of science core standards for Utah public schools for the state.

(8) On or before October 1 of each year, the office shall submit a written report to the Public Utilities, Energy, and Technology Interim Committee describing activities, successes, challenges, and funding needs related to the programs and training established in this section.

Section 203. Section **79-6-1003** is amended to read:

79-6-1003 (Effective upon governor's approval). Utah Energy Research Board -- Duties -- Expenses.

- (1) There is established in the office the Utah Energy Research Board that is composed of the following voting board members:
- (a) the director, or the director's designee, who shall serve as the chair of the board;
 - (b) the president, or the president's designee, of each public and private university in the state that is classified as a Research 1 institution by the Carnegie Classification of Institutions of Higher Education;
 - (c) the commissioner of higher education, as described in Section [53B-1-408] 53H-1-302, or the commissioner's designee;
 - (d) one member, who is not a legislator, with experience in the non-regulated energy industry appointed by the speaker of the House of Representatives;
 - (e) one member, who is not a legislator, with experience in energy commercialization appointed by the president of the Senate;
 - (f) one member appointed by the governor who resides in a county of the third, fourth, fifth, or sixth class as described in Section 17-50-501;
 - (g) one member appointed by the director representing the Idaho National Laboratory; and
 - (h) two members appointed by the director with relevant expertise in energy research and development.
- (2)(a) The term of an appointed board member is four years.
- (b) Notwithstanding Subsection (2)(a), the person making an appointment shall, at the time of appointment or reappointment, adjust the length of board member terms to ensure the terms of board members are staggered so that approximately half of the board is constituted of new members every two years.
 - (c) The person who appoints a member under Subsection (1) may remove an appointee who was appointed by the person for cause.
 - (d) The person who appoints a member under Subsection (1) shall fill a vacancy on the board in the same manner as provided in Subsection (1).
 - (e) An individual appointed to fill a vacancy shall serve the remaining unexpired term.
 - (f) Unless removed for cause under Subsection (2)(c) a board member shall serve until a successor is appointed.
- (3)(a) A majority of the board constitutes a quorum.
- (b) A majority vote of the quorum is required for an action to be taken by the board.

- 18797 (4) The board shall:
- 18798 (a) oversee and supervise the management of:
- 18799 (i) the lab; and
- 18800 (ii) the institute;
- 18801 (b) appoint directors for the lab and institute, who shall serve at the pleasure of the board;
- 18802 (c) establish reasonable compensation for:
- 18803 (i) the lab director; and
- 18804 (ii) the institute director;
- 18805 (d) develop and implement:
- 18806 (i) bylaws to govern the lab; and
- 18807 (ii) bylaws to govern the institute;
- 18808 (e) establish policies for:
- 18809 (i) joint appointments between the Idaho National Laboratory and public and private
- 18810 institutions of higher education;
- 18811 (ii) research partnerships between institutions;
- 18812 (iii) technology commercialization; and
- 18813 (iv) workforce development initiatives;
- 18814 (f) foster innovation and support technological development in the energy sector by
- 18815 collaborating with industry leaders, researchers, entrepreneurs, investors, and other
- 18816 stakeholders;
- 18817 (g) identify areas of economic growth and workforce development opportunities related
- 18818 to emerging energy technologies and solutions;
- 18819 (h) seek potential investors and partners from the technology, finance, and business
- 18820 sectors to support innovative research and early-stage ventures focused on
- 18821 developing commercially viable energy technologies in the state;
- 18822 (i) develop evaluation criteria for approving project proposals, with input from the lab
- 18823 director, including:
- 18824 (i) alignment with state energy policy priorities;
- 18825 (ii) commercialization potential;
- 18826 (iii) economic impact; and
- 18827 (iv) other relevant factors as determined by the board;
- 18828 (j) approve providing matching grants to applicants under the Utah Energy Research
- 18829 Grant Program created in Section 79-6-403; and
- 18830 (k) make recommendations to the council regarding funding allocations for:

- 18831 (i) research projects;
- 18832 (ii) facility operations;
- 18833 (iii) workforce development programs; and
- 18834 (iv) technology commercialization initiatives;
- 18835 (l) administer the funds allocated by the council to the board;
- 18836 (m) coordinate energy research activities between:
 - 18837 (i) the lab;
 - 18838 (ii) the institute;
 - 18839 (iii) public and private institutions of higher education;
 - 18840 (iv) the Idaho National Laboratory; and
 - 18841 (v) industry partners;
- 18842 (n) review and approve annual reports from the lab and institute directors;
- 18843 (o) report annually to:
 - 18844 (i) the governor;
 - 18845 (ii) the Public Utilities, Energy, and Technology Interim Committee; and
 - 18846 (iii) the Education Interim Committee;
- 18847 (p) engage with industry partners to:
 - 18848 (i) identify research needs;
 - 18849 (ii) develop workforce programs;
 - 18850 (iii) commercialize technologies; and
 - 18851 (iv) secure additional funding sources;
- 18852 (q) coordinate with federal agencies on:
 - 18853 (i) research initiatives;
 - 18854 (ii) grant opportunities; and
 - 18855 (iii) regulatory compliance;
- 18856 (r) provide quarterly reports to the Utah Energy Council regarding:
 - 18857 (i) ongoing research projects and the research projects' alignment with state energy
 - 18858 goals;
 - 18859 (ii) potential commercialization opportunities;
 - 18860 (iii) emerging technologies and the potential impact on the state's energy landscape;
 - 18861 and
 - 18862 (iv) recommendations for policy changes or initiatives to support energy innovation;
 - 18863 and
- 18864 (s) coordinate with the council on:

- (i) strategic planning for statewide energy research initiatives;
- (ii) identifying priority research areas that align with state energy policy;
- (iii) developing frameworks for public-private partnerships in energy research; and
- (iv) establishing metrics for measuring research outcomes and impact.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall meet at least quarterly and may hold additional meetings as necessary to review project proposals.

Section 204. Effective Date.

(1) Except as provided in Subsection (2), this bill takes effect:

(a) except as provided in Subsection (1)(b), December 6, 2025; or

(b) if approved by two-thirds of all members elected to each house:

(i) upon approval by the governor;

(ii) without the governor's signature, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(iii) in the case of a veto, the date of veto override.

(2) The actions affecting Section 59-12-102 (**Effective 07/01/26**) take effect on July 1, 2026.

Section 205. Coordinating with S.B. 1001

If S.B. 1002, Higher Education Recodification External References, passes, and S.B., 1001, Higher Education Recodification, does not pass and become law, the Legislature intends that S.B. 1002, Higher Education Recodification External References, not be enrolled.