

1 **REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brad R. Wilson**

5 Senate Sponsor: Ralph Okerlund

7 **LONG TITLE**

8 **General Description:**

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10 eliminating references to repealed provisions, making minor wording changes, updating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

12 **Highlighted Provisions:**

13 This bill:

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15 eliminating references to repealed provisions, making minor wording changes,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

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 4-39-104, as last amended by Laws of Utah 2016, Chapter 19

25 10-2a-302, as last amended by Laws of Utah 2015, Chapter 157 and renumbered and
26 amended by Laws of Utah 2015, Chapter 352

27 17-23-14, as last amended by Laws of Utah 2016, Chapter 171

28 17B-2a-804, as last amended by Laws of Utah 2016, Chapter 387

29 17C-2-110, as last amended by Laws of Utah 2016, Chapter 350

30 **17C-3-109**, as last amended by Laws of Utah 2016, Chapter 350
31 **20A-3-101**, as last amended by Laws of Utah 2008, Chapter 276
32 **26-47-103**, as last amended by Laws of Utah 2013, Chapter 167
33 **26-55-104**, as last amended by Laws of Utah 2016, Chapters 202, 207, 208 and last
34 amended by Coordination Clause, Laws of Utah 2016, Chapter 202
35 **31A-30-107.3**, as last amended by Laws of Utah 2013, Chapter 341
36 **35A-1-206**, as last amended by Laws of Utah 2016, Chapters 236, 271, and 296
37 **35A-8-308**, as enacted by Laws of Utah 2016, Chapter 184
38 **35A-8-309**, as enacted by Laws of Utah 2016, Chapter 184
39 **41-1a-418**, as last amended by Laws of Utah 2016, Chapters 46, 52, 70, 71, and 102
40 **41-6a-520**, as last amended by Laws of Utah 2006, Chapter 341
41 **41-6a-521**, as last amended by Laws of Utah 2011, Chapter 312
42 **41-6a-524**, as enacted by Laws of Utah 2005, Chapter 2 and last amended by Laws of
43 Utah 2005, Chapter 91
44 **41-6a-527**, as last amended by Laws of Utah 2013, Chapter 394
45 **41-6a-606**, as last amended by Laws of Utah 2006, Chapter 168
46 **53-3-220**, as last amended by Laws of Utah 2015, Chapter 165
47 **53A-1-1110**, as last amended by Laws of Utah 2016, Chapter 349
48 **53A-1-1403**, as enacted by Laws of Utah 2016, Chapter 221
49 **53A-16-113**, as last amended by Laws of Utah 2016, Chapters 350 and 367
50 **58-17b-309.6**, as last amended by Laws of Utah 2014, Chapter 72
51 **58-37f-304**, as enacted by Laws of Utah 2016, Chapter 275
52 **59-1-403**, as last amended by Laws of Utah 2015, Chapters 411 and 451
53 **59-7-302**, as last amended by Laws of Utah 2016, Chapters 311 and 368
54 **59-12-102**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6
55 **59-12-703**, as last amended by Laws of Utah 2016, Chapters 344 and 364
56 **62A-2-120**, as last amended by Laws of Utah 2016, Chapter 122
57 **62A-4a-208**, as last amended by Laws of Utah 2009, Chapter 75

- 58 **62A-4a-209**, as last amended by Laws of Utah 2016, Chapter 231
- 59 **62A-5-103.5**, as last amended by Laws of Utah 2015, Chapter 255
- 60 **62A-15-703**, as last amended by Laws of Utah 2008, Chapter 3
- 61 **63A-5-602**, as enacted by Laws of Utah 2008, Chapter 334
- 62 **63E-1-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
- 63 **63G-3-201**, as last amended by Laws of Utah 2016, Chapter 193
- 64 **63G-3-601**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 65 **63G-6a-103**, as last amended by Laws of Utah 2016, Chapters 176, 237, 355 and last
- 66 amended by Coordination Clause, Laws of Utah 2016, Chapter 355
- 67 **63G-6a-2402**, as enacted by Laws of Utah 2014, Chapter 196
- 68 **63H-6-104.5**, as enacted by Laws of Utah 2016, Chapter 301
- 69 **63I-1-220**, as last amended by Laws of Utah 2016, Chapters 176 and 348
- 70 **63I-1-231**, as last amended by Laws of Utah 2015, Chapter 50
- 71 **63I-1-253**, as last amended by Laws of Utah 2016, Chapters 41, 63, and 169
- 72 **63I-2-210**, as last amended by Laws of Utah 2016, Chapter 14
- 73 **63I-2-259**, as last amended by Laws of Utah 2015, Chapter 139
- 74 **63J-7-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
- 75 **63J-8-102**, as last amended by Laws of Utah 2015, Chapter 88
- 76 **67-1-8.1**, as last amended by Laws of Utah 2011, Chapter 218
- 77 **67-1-15**, as enacted by Laws of Utah 2006, Chapter 362
- 78 **75-5-424**, as last amended by Laws of Utah 2014, Chapter 142
- 79 **76-5-303**, as repealed and reenacted by Laws of Utah 2010, Chapter 374
- 80 **78A-6-105**, as last amended by Laws of Utah 2016, Chapters 109 and 351

81 REPEALS:

- 82 **59-2-1116 (Section not in effect)**, as enacted by Laws of Utah 2016, Chapter 332



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

85 Section 1. Section **4-39-104** is amended to read:

86 **4-39-104. Domesticated Elk Act advisory council.**

87 (1) The department shall establish a Domesticated Elk Act advisory council to give
88 advice and make recommendations on policies and rules adopted pursuant to this chapter.

89 (2) The advisory council shall consist of 10 members appointed by the commissioner
90 of agriculture to four-year terms as follows:

91 (a) one member, recommended by the executive director of the Department of Natural
92 Resources, shall represent the Department of Natural Resources;

93 (b) two members shall represent the Department of Agriculture, one of whom shall be
94 the state veterinarian;

95 (c) one member shall represent the livestock industry;

96 (d) one member, recommended by the executive director of the Department of Natural
97 Resources from a list of candidates submitted by the Division of Wildlife Resources, shall
98 represent wildlife interests; and

99 (e) five members, recommended by the Department of Agriculture, shall represent the
100 domesticated elk industry.

101 (3) Notwithstanding the requirements of Subsection (2), the commissioner shall, at the
102 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
103 council members are staggered so that approximately half of the council is appointed every two
104 years.

105 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
106 appointed for the unexpired term.

107 (5) (a) A majority of the advisory council constitutes a quorum.

108 (b) A quorum is necessary for the council to act.

109 (6) A member may not receive compensation or benefits for the member's service, but
110 may receive per diem and travel expenses in accordance with:

111 (a) Section 63A-3-106;

112 (b) Section 63A-3-107; and

113 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

114 63A-3-107.

115 Section 2. Section 10-2a-302 is amended to read:

116 **10-2a-302. Incorporation of a town -- Petition.**

117 (1) As used in this section:

118 (a) "Assessed value," with respect to agricultural land, means the value at which the
119 land would be assessed without regard to a valuation for agricultural use under Section

120 59-2-503.

121 (b) "Feasibility consultant" means a person or firm:

122 (i) with expertise in the processes and economics of local government; and

123 (ii) who is independent of and not affiliated with a county or sponsor of a petition to
124 incorporate.

125 (c) "Financial feasibility study" means a study described in Subsection (7).

126 (d) "Municipal service" means a publicly provided service that is not provided on a
127 countywide basis.

128 (e) "Nonurban" means having a residential density of less than one unit per acre.

129 (2) (a) (i) A contiguous area of a county not within a municipality, with a population of
130 at least 100 but less than 1,000, may incorporate as a town as provided in this section.

131 (ii) An area within a county of the first class is not contiguous for purposes of
132 Subsection (2)(a)(i) if:

133 (A) the area includes a strip of land that connects geographically separate areas; and

134 (B) the distance between the geographically separate areas is greater than the average
135 width of the strip of land connecting the geographically separate areas.

136 (b) The population figure under Subsection (2)(a) shall be determined:

137 (i) as of the date the incorporation petition is filed; and

138 (ii) by the Utah Population Estimates Committee within 20 days after the county clerk's
139 certification under Subsection (6) of a petition filed under Subsection (4).

140 (3) (a) The process to incorporate an area as a town is initiated by filing a petition to
141 incorporate the area as a town with the Office of the Lieutenant Governor.

142 (b) A petition under Subsection (3)(a) shall:

143 (i) be signed by:

144 (A) the owners of private real property that:

145 (I) is located within the area proposed to be incorporated; and

146 (II) is equal in assessed value to more than 1/5 of the assessed value of all private real
147 property within the area; and

148 (B) 1/5 of all registered voters within the area proposed to be incorporated as a town,
149 according to the official voter registration list maintained by the county on the date the petition
150 is filed;

151 (ii) designate as sponsors at least five of the property owners who have signed the
152 petition, one of whom shall be designated as the contact sponsor, with the mailing address of
153 each owner signing as a sponsor;

154 (iii) be accompanied by and circulated with an accurate map or plat, prepared by a
155 licensed surveyor, showing a legal description of the boundary of the proposed town; and

156 (iv) substantially comply with and be circulated in the following form:

157 PETITION FOR INCORPORATION OF (insert the proposed name of the proposed
158 town)

159 To the Honorable Lieutenant Governor:

160 We, the undersigned owners of real property and registered voters within the area
161 described in this petition, respectfully petition the lieutenant governor to direct the county
162 legislative body to submit to the registered voters residing within the area described in this
163 petition, at the next regular general election, the question of whether the area should
164 incorporate as a town. Each of the undersigned affirms that each has personally signed this
165 petition and is an owner of real property or a registered voter residing within the described area,
166 and that the current residence address of each is correctly written after the signer's name. The
167 area proposed to be incorporated as a town is described as follows: (insert an accurate
168 description of the area proposed to be incorporated).

169 (c) A petition under this Subsection (3) may not describe an area that includes some or

170 all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

171 (i) was filed before the filing of the petition; and

172 (ii) is still pending on the date the petition is filed.

173 (d) A petition may not be filed under this section if the private real property owned by
174 the petition sponsors, designated under Subsection (3)(b)(ii), cumulatively exceeds 40% of the
175 total private land area within the area proposed to be incorporated as a town.

176 (e) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn,
177 reinstate the signer's signature on the petition:

178 (i) at any time until the lieutenant governor certifies the petition under Subsection (5);

179 and

180 (ii) by filing a signed, written withdrawal or reinstatement with the lieutenant governor.

181 (4) (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town
182 an area located within a county of the first class, the lieutenant governor shall deliver written
183 notice of the proposed incorporation:

184 (i) to each owner of private real property owning more than 1% of the assessed value
185 of all private real property within the area proposed to be incorporated as a town; and

186 (ii) within seven calendar days after the date on which the petition is filed.

187 (b) A private real property owner described in Subsection (4)(a)(i) may exclude all or
188 part of the owner's property from the area proposed to be incorporated as a town by filing a
189 notice of exclusion:

190 (i) with the lieutenant governor; and

191 (ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

192 (c) The lieutenant governor shall exclude from the area proposed to be incorporated as
193 a town the property identified in the notice of exclusion under Subsection (4)(b) if:

194 (i) the property:

195 (A) is nonurban; and

196 (B) does not and will not require a municipal service; and

197 (ii) exclusion will not leave an unincorporated island within the proposed town.

198 (d) If the lieutenant governor excludes property from the area proposed to be
199 incorporated as a town, the lieutenant governor shall send written notice of the exclusion to the
200 contact sponsor within five days after the exclusion.

201 (5) No later than 20 days after the filing of a petition under Subsection (3), the
202 lieutenant governor shall:

203 (a) with the assistance of other county officers of the county in which the incorporation
204 is proposed from whom the lieutenant governor requests assistance, determine whether the
205 petition complies with the requirements of Subsection (3); and

206 (b) (i) if the lieutenant governor determines that the petition complies with those
207 requirements:

208 (A) certify the petition; and

209 (B) mail or deliver written notification of the certification to:

210 (I) the contact sponsor; and

211 (II) the Utah Population Estimates Committee; or

212 (ii) if the lieutenant governor determines that the petition fails to comply with any of
213 those requirements, reject the petition and notify the contact sponsor in writing of the rejection
214 and the reasons for the rejection.

215 (6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to
216 correct a deficiency for which it was rejected and then refiled with the lieutenant governor.

217 (ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward
218 fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended
219 under Subsection (6)(a)(i) and then refiled with the lieutenant governor.

220 (b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been
221 rejected by the lieutenant governor under Subsection (5)(b)(ii):

222 (i) the amended petition shall be considered as a newly filed petition; and

223 (ii) the amended petition's processing priority is determined by the date on which it is
224 refiled.

225 (7) (a) (i) If a petition is filed under Subsection [~~4~~] (3) and certified under Subsection

226 [(6)] (5), the lieutenant governor shall commission and pay for a financial feasibility study.

227 (ii) The feasibility consultant shall be chosen:

228 (A) (I) by the contact sponsor of the incorporation petition, as described in Subsection
229 (3)(b)(ii), with the consent of the lieutenant governor; or

230 (II) by the lieutenant governor if the contact sponsor states, in writing, that the sponsor
231 defers selection of the feasibility consultant to the lieutenant governor; and

232 (B) in accordance with applicable county procurement procedure.

233 (iii) The lieutenant governor shall require the feasibility consultant to complete the
234 financial feasibility study and submit written results of the study to the lieutenant governor no
235 later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility
236 study.

237 (b) The financial feasibility study shall consider the:

238 (i) population and population density within the area proposed for incorporation and
239 the surrounding area;

240 (ii) current and five-year projections of demographics and economic base in the
241 proposed town and surrounding area, including household size and income, commercial and
242 industrial development, and public facilities;

243 (iii) projected growth in the proposed town and in adjacent areas during the next five
244 years;

245 (iv) subject to Subsection (7)(c), the present and five-year projections of the cost,
246 including overhead, of governmental services in the proposed town, including:

247 (A) culinary water;

248 (B) secondary water;

249 (C) sewer;

250 (D) law enforcement;

251 (E) fire protection;

252 (F) roads and public works;

253 (G) garbage;

254 (H) weeds; and
255 (I) government offices;
256 (v) assuming the same tax categories and tax rates as currently imposed by the county
257 and all other current service providers, the present and five-year projected revenue for the
258 proposed town; and

259 (vi) a projection of any new taxes per household that may be levied within the
260 incorporated area within five years of incorporation.

261 (c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a
262 level and quality of governmental services to be provided to the proposed town in the future
263 that fairly and reasonably approximate the level and quality of governmental services being
264 provided to the proposed town at the time of the feasibility study.

265 (ii) In determining the present cost of a governmental service, the feasibility consultant
266 shall consider:

267 (A) the amount it would cost the proposed town to provide governmental service for
268 the first five years after incorporation; and

269 (B) the county's present and five-year projected cost of providing governmental
270 service.

271 (iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation
272 and anticipated growth.

273 (d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year
274 projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall
275 project and report the expected annual revenue surplus to the contact sponsor and the lieutenant
276 governor.

277 (e) The lieutenant governor shall post a copy of the feasibility study on the lieutenant
278 governor's website and make a copy available for public review at the Office of the Lieutenant
279 Governor.

280 (f) The lieutenant governor shall approve a certified petition proposing the
281 incorporation of a town and hold a public hearing as provided in Section [10-2a-303](#).

282 Section 3. Section 17-23-14 is amended to read:

283 **17-23-14. Disturbed corners -- County surveyor to be notified -- Coordination**
284 **with certain state agencies.**

285 (1) As used in this section:

286 [~~(a) "Committee" means the Monument Replacement and Restoration Committee~~
287 ~~created in Section 63F-1-510.~~]

288 [~~(b)~~] (a) "Corner" means the same as that term is defined in Section 17-23-17.5.

289 [~~(c)~~] (b) "Monument" means the same as that term is defined in Section 17-23-17.5.

290 (2) A person who finds it necessary to disturb any established corner for any reason,
291 including the improvement of a road, shall notify the county surveyor at least five business
292 days before the day on which the person disturbs the corner.

293 (3) A person who finds a monument that needs rehabilitation shall notify the county
294 surveyor within five business days after the day on which the person finds the monument.

295 (4) The county surveyor or the county surveyor's designee shall:

296 (a) consistent with federal law or rule, reconstruct or rehabilitate the monument for the
297 corner by lowering and witnessing the corner or placing another monument and witness over
298 the existing monument so that the monument:

299 (i) is left in a physical condition to remain as permanent a monument as is reasonably
300 possible; and

301 (ii) may be reasonably located at all times in the future; and

302 (b) file the record of each reconstruction or rehabilitation under Subsection (4)(a).

303 Section 4. Section 17B-2a-804 is amended to read:

304 **17B-2a-804. Additional public transit district powers.**

305 (1) In addition to the powers conferred on a public transit district under Section
306 17B-1-103, a public transit district may:

307 (a) provide a public transit system for the transportation of passengers and their
308 incidental baggage;

309 (b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817,

310 levy and collect property taxes only for the purpose of paying:

311 (i) principal and interest of bonded indebtedness of the public transit district; or

312 (ii) a final judgment against the public transit district if:

313 (A) the amount of the judgment exceeds the amount of any collectable insurance or

314 indemnity policy; and

315 (B) the district is required by a final court order to levy a tax to pay the judgment;

316 (c) insure against:

317 (i) loss of revenues from damage to or destruction of some or all of a public transit

318 system from any cause;

319 (ii) public liability;

320 (iii) property damage; or

321 (iv) any other type of event, act, or omission;

322 (d) acquire, contract for, lease, construct, own, operate, control, or use:

323 (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal,

324 parking lot, or any other facility necessary or convenient for public transit service; or

325 (ii) any structure necessary for access by persons and vehicles;

326 (e) (i) hire, lease, or contract for the supplying or management of a facility, operation,

327 equipment, service, employee, or management staff of an operator; and

328 (ii) provide for a sublease or subcontract by the operator upon terms that are in the

329 public interest;

330 (f) operate feeder bus lines and other feeder or ridesharing services as necessary;

331 (g) accept a grant, contribution, or loan, directly through the sale of securities or

332 equipment trust certificates or otherwise, from the United States, or from a department,

333 instrumentality, or agency of the United States;

334 (h) study and plan transit facilities in accordance with any legislation passed by

335 Congress;

336 (i) cooperate with and enter into an agreement with the state or an agency of the state

337 or otherwise contract to finance to establish transit facilities and equipment or to study or plan

338 transit facilities;

339 (j) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds,
340 to carry out the purposes of the district;

341 (k) from bond proceeds or any other available funds, reimburse the state or an agency
342 of the state for an advance or contribution from the state or state agency;

343 (l) do anything necessary to avail itself of any aid, assistance, or cooperation available
344 under federal law, including complying with labor standards and making arrangements for
345 employees required by the United States or a department, instrumentality, or agency of the
346 United States;

347 (m) sell or lease property;

348 (n) assist in or operate transit-oriented or transit-supportive developments;

349 (o) establish, finance, participate as a limited partner or member in a development with
350 limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or
351 operate transit facilities, equipment, and transit-oriented developments or transit-supportive
352 developments; and

353 (p) subject to the restriction in Subsection (2), assist in a transit-oriented development
354 or a transit-supportive development in connection with ~~[economic]~~ project area development
355 ~~[or community development]~~ as defined in Section 17C-1-102 by:

356 (i) investing in a project as a limited partner or a member, with limited liabilities; or

357 (ii) subordinating an ownership interest in real property owned by the public transit
358 district.

359 (2) (a) A public transit district may only assist in the development of areas under
360 Subsection (1)(p):

361 (i) in the manner described in Subsection (1)(p)(i) or (ii); and

362 (ii) on no more than eight transit-oriented developments or transit-supportive
363 developments selected by the board of trustees.

364 (b) A public transit district may not invest in a transit-oriented development or
365 transit-supportive development as a limited partner or other limited liability entity under the

366 provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity,
367 makes an equity contribution equal to no less than 25% of the appraised value of the property
368 to be contributed by the public transit district.

369 (c) (i) For transit-oriented development projects, a public transit district shall adopt
370 transit-oriented development policies and guidelines that include provisions on affordable
371 housing.

372 (ii) For transit-supportive development projects, a public transit district shall work with
373 the metropolitan planning organization and city and county governments where the project is
374 located to collaboratively seek to create joint plans for the areas within one-half mile of transit
375 stations, including plans for affordable housing.

376 (d) A current board member of a public transit district to which the board member is
377 appointed may not have any interest in the transactions engaged in by the public transit district
378 pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's
379 fiduciary duty as a board member.

380 (3) A public transit district may be funded from any combination of federal, state,
381 local, or private funds.

382 (4) A public transit district may not acquire property by eminent domain.

383 Section 5. Section **17C-2-110** is amended to read:

384 **17C-2-110. Amending an urban renewal project area plan.**

385 (1) An urban renewal project area plan may be amended as provided in this section.

386 (2) If an agency proposes to amend an urban renewal project area plan to enlarge the
387 project area:

388 (a) subject to Subsection (2)(e), the requirements under this part that apply to adopting
389 a project area plan apply equally to the proposed amendment as if it were a proposed project
390 area plan;

391 (b) for a pre-July 1, 1993 project area plan, the base year for the new area added to the
392 project area shall be determined under Subsection **17C-1-102(9)(a)[(†)]** using the effective date
393 of the amended project area plan;

394 (c) for a post-June 30, 1993 project area plan:

395 (i) the base year for the new area added to the project area shall be determined under
396 Subsection 17C-1-102(9)[(a)(ii)](b) using the date of the taxing entity committee's consent
397 referred to in Subsection (2)(c)(ii); and

398 (ii) the agency shall obtain the consent of the taxing entity committee before the agency
399 may collect tax increment from the area added to the project area by the amendment;

400 (d) the agency shall make a finding regarding the existence of blight in the area
401 proposed to be added to the project area by following the procedure set forth in Subsections
402 17C-2-102(1)(a)(i) and (ii); and

403 (e) the agency need not make a finding regarding the existence of blight in the project
404 area as described in the original project area plan, if the agency made a finding of the existence
405 of blight regarding that project area in connection with adoption of the original project area
406 plan.

407 (3) If a proposed amendment does not propose to enlarge an urban renewal project
408 area, a board may adopt a resolution approving an amendment to a project area plan after:

409 (a) the agency gives notice, as provided in Section 17C-1-806, of the proposed
410 amendment and of the public hearing required by Subsection (3)(b);

411 (b) the board holds a public hearing on the proposed amendment that meets the
412 requirements of a plan hearing;

413 (c) the agency obtains the taxing entity committee's consent to the amendment, if the
414 amendment proposes:

415 (i) to enlarge the area within the project area from which tax increment is collected;

416 (ii) to permit the agency to receive a greater percentage of tax increment or to extend
417 the project area funds collection period, or both, than allowed under the adopted project area
418 plan; or

419 (iii) for an amendment to a project area plan that was adopted before April 1, 1983, to
420 expand the area from which tax increment is collected to exceed 100 acres of private property;
421 and

422 (d) the agency obtains the consent of the legislative body or governing board of each
423 taxing entity affected, if the amendment proposes to permit the agency to receive, from less
424 than all taxing entities, a greater percentage of tax increment or to extend the project area funds
425 collection period, or both, than allowed under the adopted project area plan.

426 (4) (a) An urban renewal project area plan may be amended without complying with
427 the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without
428 obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

429 (i) makes a minor adjustment in the boundary description of a project area boundary
430 requested by a county assessor or county auditor to avoid inconsistent property boundary lines;
431 or

432 (ii) subject to Subsection (4)(b), removes a parcel from a project area because the
433 agency determines that the parcel is:

434 (A) tax exempt;

435 (B) no longer blighted; or

436 (C) no longer necessary or desirable to the project area.

437 (b) An amendment removing a parcel from a project area under Subsection (4)(a)(ii)
438 may be made without the consent of the record property owner of the parcel being removed.

439 (5) (a) An amendment approved by board resolution under this section may not take
440 effect until adopted by ordinance of the legislative body of the community in which the project
441 area that is the subject of the project area plan being amended is located.

442 (b) Upon a community legislative body passing an ordinance adopting an amendment
443 to a project area plan, the agency whose project area plan was amended shall comply with the
444 requirements of Sections 17C-2-108 and 17C-2-109 to the same extent as if the amendment
445 were a project area plan.

446 (6) (a) Within 30 days after the day on which an amendment to a project area plan
447 becomes effective, a person may contest the amendment to the project area plan or the
448 procedure used to adopt the amendment to the project area plan if the amendment or procedure
449 fails to comply with a provision of this title.

450 (b) After the 30-day period described in Subsection (6)(a) expires, a person may not
451 contest the amendment to the project area plan or procedure used to adopt the amendment to
452 the project area plan for any cause.

453 Section 6. Section **17C-3-109** is amended to read:

454 **17C-3-109. Amending an economic development project area plan.**

455 (1) An economic development project area plan may be amended as provided in this
456 section.

457 (2) If an agency proposes to amend an economic development project area plan to
458 enlarge the project area:

459 (a) the requirements under this part that apply to adopting a project area plan apply
460 equally to the proposed amendment as if it were a proposed project area plan;

461 (b) the base year for the new area added to the project area shall be determined under
462 Subsection **17C-1-102(9)**~~(a)(ii)~~ using the date of the taxing entity committee's consent
463 referred to in Subsection (2)(c); and

464 (c) the agency shall obtain the consent of the taxing entity committee before the agency
465 may collect tax increment from the area added to the project area by the amendment.

466 (3) If a proposed amendment does not propose to enlarge an economic development
467 project area, a board may adopt a resolution approving an amendment to an economic
468 development project area plan after:

469 (a) the agency gives notice, as provided in Chapter 1, Part 8, Hearing and Notice
470 Requirements, of the proposed amendment and of the public hearing required by Subsection
471 (3)(b);

472 (b) the board holds a public hearing on the proposed amendment that meets the
473 requirements of a plan hearing;

474 (c) the agency obtains the taxing entity committee's consent to the amendment, if the
475 amendment proposes:

476 (i) to enlarge the area within the project area from which tax increment is received; or

477 (ii) to permit the agency to receive a greater percentage of tax increment or to extend

478 the project area funds collection period under the economic development project area plan; and

479 (d) the agency obtains the consent of the legislative body or governing board of each
480 taxing entity affected, if the amendment proposes to permit the agency to receive, from less
481 than all taxing entities, a greater percentage of tax increment or to extend the project area funds
482 collection period, or both, than allowed under the economic development project area plan.

483 (4) (a) An economic development project area plan may be amended without
484 complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and
485 (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the
486 amendment:

487 (i) makes a minor adjustment in the boundary description of a project area boundary
488 requested by a county assessor or county auditor to avoid inconsistent property boundary lines;
489 or

490 (ii) subject to Subsection (4)(b), removes a parcel from a project area because the
491 agency determines that the parcel is:

492 (A) tax exempt; or

493 (B) no longer necessary or desirable to the project area.

494 (b) An amendment removing a parcel from a project area under Subsection (4)(a) may
495 be made without the consent of the record property owner of the parcel being removed.

496 (5) (a) An amendment approved by board resolution under this section may not take
497 effect until adopted by ordinance of the legislative body of the community in which the project
498 area that is the subject of the project area plan being amended is located.

499 (b) Upon a community legislative body passing an ordinance adopting an amendment
500 to a project area plan, the agency whose project area plan was amended shall comply with the
501 requirements of Sections [17C-3-107](#) and [17C-3-108](#) to the same extent as if the amendment
502 were a project area plan.

503 (6) (a) Within 30 days after the day on which an amendment to a project area plan
504 becomes effective, a person may contest the amendment to the project area plan or the
505 procedure used to adopt the amendment to the project area plan if the amendment or procedure

506 fails to comply with a provision of this title.

507 (b) After the 30-day period described in Subsection (6)(a) expires, a person may not
508 contest the amendment to the project area plan or procedure used to adopt the amendment to
509 the project area plan for any cause.

510 Section 7. Section **20A-3-101** is amended to read:

511 **20A-3-101. Residency and age requirements of voters.**

512 (1) A person may vote in any regular general election or statewide special election if
513 that person has registered to vote in accordance with Title 20A, Chapter 2, Voter Registration.

514 (2) A person may vote in the Western States Presidential Primary election or a regular
515 primary election if:

516 (a) that person has registered to vote in accordance with Title 20A, Chapter 2, Voter
517 Registration; and

518 (b) that person's political party affiliation, or unaffiliated status, allows the person to
519 vote in the election.

520 (3) A person may vote in a municipal general election, municipal primary election, [in
521 a] local special election, [in a] local district election, and [in a] bond election if that person:

522 (a) has registered to vote in accordance with Title 20A, Chapter 2, Voter Registration;
523 and

524 (b) is a resident of a voting district or precinct within the local entity that is holding the
525 election.

526 Section 8. Section **26-47-103** is amended to read:

527 **26-47-103. Department to award grants for assistance to persons with bleeding**
528 **disorders.**

529 (1) For purposes of this section:

530 (a) "Hemophilia services" means a program for medical care, including the costs of
531 blood transfusions, and the use of blood derivatives and blood clotting factors.

532 (b) "Person with a bleeding disorder" means a person:

533 (i) who is medically diagnosed with hemophilia or a bleeding disorder;

534 (ii) who is not eligible for Medicaid or the Children's Health Insurance Program; and
535 (iii) ~~[who has either]~~ who meets one or more of the following:
536 (A) the person's insurance coverage ~~[that]~~ excludes coverage for hemophilia services;
537 (B) the person has exceeded the person's insurance plan's annual maximum benefits;
538 (C) the person has exceeded the person's annual or lifetime maximum benefits payable
539 ~~[under Title 31A, Chapter 29, Comprehensive Health Insurance Pool Act; or (D) insurance~~
540 ~~coverage available] under [either] private health insurance[, Title 31A, Chapter 29,~~
541 ~~Comprehensive Health Insurance Pool Act, Utah mini COBRA coverage under Section~~
542 ~~31A-22-722, or federal COBRA coverage, but]; or~~
543 (D) the premiums for [that] the person's private insurance coverage, or cost sharing
544 under private coverage, are greater than a percentage of the person's annual adjusted gross
545 income as established by the department by administrative rule.

546 (2) (a) Within appropriations specified by the Legislature for this purpose, the
547 department shall make grants to public and nonprofit entities who assist persons with bleeding
548 disorders with the cost of obtaining hemophilia services or the cost of insurance premiums for
549 coverage of hemophilia services.

550 (b) Applicants for grants under this section:

551 (i) shall be submitted to the department in writing; and

552 (ii) shall comply with Subsection (3).

553 (3) Applications for grants under this section shall include:

554 (a) a statement of specific, measurable objectives, and the methods to be used to assess
555 the achievement of those objectives;

556 (b) a description of the personnel responsible for carrying out the activities of the grant
557 along with a statement justifying the use of any grant funds for the personnel;

558 (c) letters and other forms of evidence showing that efforts have been made to secure
559 financial and professional assistance and support for the services to be provided under the
560 grant;

561 (d) a list of services to be provided by the applicant;

562 (e) the schedule of fees to be charged by the applicant; and

563 (f) other provisions as determined by the department.

564 (4) The department may accept grants, gifts, and donations of money or property for
565 use by the grant program.

566 (5) The department shall establish rules in accordance with Title 63G, Chapter 3, Utah
567 Administrative Rulemaking Act, governing the application form, process, and criteria it will
568 use in awarding grants under this section.

569 Section 9. Section **26-55-104** is amended to read:

570 **26-55-104. Prescribing, dispensing, and administering an opiate antagonist --**
571 **Immunity from liability.**

572 (1) (a) (i) For purposes of Subsection (1)(a)(ii), "a person other than a health care
573 facility or health care provider" includes the following, regardless of whether the person has
574 received funds from the department through the Opiate Overdose Outreach Pilot Program
575 created in Section **26-55-107**:

576 (A) a person described in Subsections **26-55-107**(1)(a)(i)(A) through (1)(a)(i)(F); or

577 (B) an organization defined by department rule made under Subsection
578 **26-55-107**(7)(e) that is in a position to assist an individual who is at increased risk of
579 experiencing an opiate-related drug overdose event.

580 (ii) Except as provided in Subsection (1)(b), a person~~[- including an overdose outreach~~
581 ~~provider, but not including] other than~~ a health care facility or health care provider, that acts in
582 good faith to administer an opiate antagonist to an individual whom the person believes to be
583 experiencing an opiate-related drug overdose event is not liable for any civil damages for acts
584 or omissions made as a result of administering the opiate antagonist.

585 (b) A health care provider:

586 (i) does not have immunity from liability under Subsection (1)(a) when the health care
587 provider is acting within the scope of the health care provider's responsibilities or duty of care;
588 and

589 (ii) does have immunity from liability under Subsection (1)(a) if the health care

590 provider is under no legal duty to respond and otherwise complies with Subsection (1)(a).

591 (2) Notwithstanding Sections 58-1-501, 58-17b-501, and 58-17b-502, a health care
592 provider who is licensed to prescribe an opiate antagonist may prescribe, including by a
593 standing prescription drug order issued in accordance with Subsection 26-55-105(2), or
594 dispense an opiate antagonist:

595 (a) (i) to an individual who is at increased risk of experiencing an opiate-related drug
596 overdose event;

597 (ii) to a family member of, friend of, or other person, including a person described in
598 Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an
599 individual who is at increased risk of experiencing an opiate-related drug overdose event; or

600 (iii) to an overdose outreach provider for:

601 (A) furnishing to an individual who is at increased risk of experiencing an
602 opiate-related drug overdose event, or to a family member of, friend of, or other individual who
603 is in a position to assist an individual who is at increased risk of experiencing an opiate-related
604 drug overdose event, as provided in Section 26-55-106; or

605 (B) administering to an individual experiencing an opiate-related drug overdose event;

606 (b) without a prescriber-patient relationship; and

607 (c) without liability for any civil damages for acts or omissions made as a result of
608 prescribing or dispensing the opiate antagonist in good faith.

609 (3) A health care provider who dispenses an opiate antagonist to an individual or an
610 overdose outreach provider under Subsection (2)(a) shall provide education to the individual or
611 overdose provider that includes written instruction on how to:

612 (a) recognize an opiate-related drug overdose event; and

613 (b) respond appropriately to an opiate-related drug overdose event, including how to:

614 (i) administer an opiate antagonist; and

615 (ii) ensure that an individual to whom an opiate antagonist has been administered
616 receives, as soon as possible, additional medical care and a medical evaluation.

617 Section 10. Section 31A-30-107.3 is amended to read:

618 **31A-30-107.3. Discontinuance and nonrenewal limitations and conditions.**

619 (1) A carrier that elects to discontinue offering all individual health benefit plans under
620 Subsection 31A-30-107.1(3)(e) is prohibited from writing new business in the individual
621 market in this state for a period of five years beginning on the date of discontinuation of the
622 last individual health benefit plan coverage that is discontinued.

623 (2) A carrier that elects to discontinue offering all small employer health benefit plans
624 under Subsection 31A-30-107(3)(e) is prohibited from writing new business in the small group
625 market in this state for a period of five years beginning on the date of discontinuation of the
626 last small employer coverage that is discontinued.

627 [~~(3) (a) If the Comprehensive Health Insurance Pool as set forth under Title 31A,
628 Chapter 29, Comprehensive Health Insurance Pool Act, is dissolved or discontinued, or if
629 enrollment is capped or suspended, an individual carrier:]~~

630 [~~(i) may, except as prohibited by Section 31A-30-117, elect to discontinue offering
631 new individual health benefit plans, except to HHPAA eligibles, but shall keep existing
632 individual health benefit plans in effect, except those individual plans that are not renewed
633 under the provisions of Subsection 31A-30-107(2) or 31A-30-107.1(2);]~~

634 [~~(ii) may elect to continue to offer new individual and small employer health benefit
635 plans; or]~~

636 [~~(iii) may elect to discontinue all of the covered carrier's health benefit plans in the
637 individual or small group market under the provisions of Subsection 31A-30-107(3)(e) or
638 31A-30-107.1(3)(e).]~~

639 [~~(b) A carrier that makes an election under Subsection (3)(a)(i):]~~

640 [~~(i) is prohibited from writing new business:]~~

641 [~~(A) in the individual market in this state; and]~~

642 [~~(B) for a period of five years beginning on the date of discontinuation;]~~

643 [~~(ii) may continue to write new business in the small employer market; and]~~

644 [~~(iii) shall provide written notice of the election under Subsection (3)(a)(i) within two
645 calendar days of the election to the Utah Insurance Department.]~~

646 ~~[(c) The prohibition described in Subsection (3)(b)(i) may be waived if the~~
647 ~~commissioner finds that waiver is in the public interest.]~~

648 ~~[(i) to promote competition; or]~~

649 ~~[(ii) to resolve inequity in the marketplace.]~~

650 ~~[(d) A carrier that makes an election under Subsection (3)(a)(iii) is subject to the~~
651 ~~provisions of Subsection (1).]~~

652 ~~[(4)]~~ (3) If a carrier is doing business in one established geographic service area of the
653 state, Sections 31A-30-107 and 31A-30-107.1 apply only to the carrier's operations in that
654 geographic service area.

655 ~~[(5)]~~ (4) If a small employer employs less than two eligible employees, a carrier may
656 not discontinue or not renew the health benefit plan until the first renewal date following the
657 beginning of a new plan year, even if the carrier knows as of the beginning of the plan year that
658 the employer no longer has at least two current employees.

659 Section 11. Section 35A-1-206 is amended to read:

660 **35A-1-206. State Workforce Development Board -- Appointment -- Membership**
661 **-- Terms of members -- Compensation.**

662 (1) There is created within the department the State Workforce Development Board in
663 accordance with the provisions of the Workforce Innovation and Opportunity Act, 29 U.S.C.
664 Sec. 3101 et seq.

665 (2) The board shall consist of the following 39 members:

666 (a) the governor or the governor's designee;

667 (b) one member of the Senate, appointed by the president of the Senate;

668 (c) one representative of the House of Representatives, appointed by the speaker of the
669 House of Representatives;

670 (d) the executive director or the executive director's designee;

671 (e) the executive director of the Department of Human Services or the executive
672 director's designee;

673 (f) the ~~[executive]~~ director of the Utah State Office of Rehabilitation or the ~~[executive]~~

674 director's designee;

675 (g) the superintendent of the State Board of Education or the superintendent's designee;

676 (h) the commissioner of higher education or the commissioner's designee;

677 (i) the commissioner of technical education of the Utah College of Applied Technology

678 or the commissioner of technical education's designee;

679 (j) the executive director of the Governor's Office of Economic Development or the

680 executive director's designee;

681 (k) the executive director of the Department of Veterans' and Military Affairs or the

682 executive director's designee; and

683 (l) the following members appointed by the governor:

684 (i) 20 representatives of business in the state, selected among the following:

685 (A) owners of businesses, chief executive or operating officers of businesses, or other

686 business executives or employers with policymaking or hiring authority;

687 (B) representatives of businesses, including small businesses, that provide employment

688 opportunities that include high-quality, work-relevant training and development in in-demand

689 industry sectors or occupations in the state; and

690 (C) representatives of businesses appointed from among individuals nominated by state

691 business organizations or business trade associations;

692 (ii) six representatives of the workforce within the state, which:

693 (A) shall include at least two representatives of labor organizations who have been

694 nominated by state labor federations;

695 (B) shall include at least one representative from a registered apprentice program;

696 (C) may include one or more representatives from a community-based organization

697 that has demonstrated experience and expertise in addressing the employment, training, or

698 educational needs of individuals with barriers to employment; and

699 (D) may include one or more representatives from an organization that has

700 demonstrated experience and expertise in addressing the employment, training, or education

701 needs of eligible youth, including organizations that serve out of school youth; and

702 (iii) two elected officials that represent a city or a county.

703 (3) (a) The governor shall appoint one of the appointed business representatives as
704 chair of the board.

705 (b) The chair shall serve at the pleasure of the governor.

706 (4) (a) The governor shall ensure that members appointed to the board represent
707 diverse geographic areas of the state, including urban, suburban, and rural areas.

708 (b) A member appointed by the governor shall serve a term of four years and may be
709 reappointed to one additional term.

710 (c) A member shall continue to serve until the member's successor has been appointed
711 and qualified.

712 (d) Except as provided in Subsection (4) (e), as terms of board members expire, the
713 governor shall appoint each new member or reappointed member to a four-year term.

714 (e) Notwithstanding the requirements of Subsection (4) (d), the governor shall, at the
715 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
716 board members are staggered so that approximately one half of the board is appointed every
717 two years.

718 (f) When a vacancy occurs in the membership for any reason, the replacement shall be
719 appointed for the unexpired term.

720 (g) The executive director shall terminate the term of any governor-appointed member
721 of the board if the member leaves the position that qualified the member for the appointment.

722 (5) A majority of members constitutes a quorum for the transaction of business.

723 (6) (a) A member of the board who is not a legislator may not receive compensation or
724 benefits for the member's service, but may receive per diem and travel expenses as allowed in:

725 (i) Section [63A-3-106](#);

726 (ii) Section [63A-3-107](#); and

727 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and
728 [63A-3-107](#).

729 (b) Compensation and expenses of a member who is a legislator are governed by

730 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

731 (7) The department shall provide staff and administrative support to the board at the
732 direction of the executive director.

733 (8) The board has the duties, responsibilities, and powers described in 29 U.S.C. Sec.
734 3111, including:

735 (a) identifying opportunities to align initiatives in education, training, workforce
736 development, and economic development;

737 (b) developing and implementing the state workforce services plan described in
738 Section 35A-1-207;

739 (c) utilizing strategic partners to ensure the needs of industry are met, including the
740 development of expanded strategies for partnerships for in-demand occupations and
741 understanding and adapting to economic changes;

742 (d) developing strategies for staff training;

743 (e) developing and improving employment centers; and

744 (f) performing other responsibilities within the scope of workforce services as
745 requested by:

746 (i) the Legislature;

747 (ii) the governor; or

748 (iii) the executive director.

749 Section 12. Section 35A-8-308 is amended to read:

750 **35A-8-308. Throughput Infrastructure Fund.**

751 (1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

752 (2) The fund consists of money generated from the following revenue sources:

753 (a) all amounts transferred to the fund under Subsection 59-12-103~~(14)~~(12);

754 (b) any voluntary contributions received;

755 (c) appropriations made to the fund by the Legislature; and

756 (d) all amounts received from the repayment of loans made by the impact board under
757 Section 35A-8-309.

758 (3) The state treasurer shall:
759 (a) invest the money in the fund by following the procedures and requirements of Title
760 51, Chapter 7, State Money Management Act; and

761 (b) deposit all interest or other earnings derived from those investments into the fund.

762 Section 13. Section **35A-8-309** is amended to read:

763 **35A-8-309. Throughput Infrastructure Fund administered by impact board --**
764 **Uses -- Review by board -- Annual report.**

765 (1) The impact board shall:

766 (a) make grants and loans from the Throughput Infrastructure Fund created in Section
767 **35A-8-308** for a throughput infrastructure project;

768 (b) use money transferred to the Throughput Infrastructure Fund in accordance with
769 Subsection **59-12-103**~~(14)~~(12) to provide a loan or grant to finance the cost of acquisition or
770 construction of a throughput infrastructure project to one or more local political subdivisions,
771 including a Utah interlocal entity created under ~~[the Interlocal Cooperation Act,]~~ Title 11,
772 Chapter 13, the Interlocal Cooperation Act;

773 (c) administer the Throughput Infrastructure Fund in a manner that will keep a portion
774 of the fund revolving;

775 (d) determine provisions for repayment of loans;

776 (e) establish criteria for awarding loans and grants; and

777 (f) establish criteria for determining eligibility for assistance under this section.

778 (2) The cost of acquisition or construction of a throughput infrastructure project
779 includes amounts for working capital, reserves, transaction costs, and other amounts
780 determined by the impact board to be allocable to a throughput infrastructure project.

781 (3) The impact board may restructure or forgive all or part of a local political
782 subdivision's or interlocal entity's obligation to repay loans for extenuating circumstances.

783 (4) In order to receive assistance under this section, a local political subdivision or an
784 interlocal entity shall submit a formal application containing the information that the impact
785 board requires.

786 (5) (a) The impact board shall:

787 (i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant
788 before approving the loan or grant and may condition its approval on whatever assurances the
789 impact board considers necessary to ensure that proceeds of the loan or grant will be used in
790 accordance with this section;

791 (ii) ensure that each loan specifies terms for interest deferments, accruals, and
792 scheduled principal repayment; and

793 (iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of
794 the appropriate local political subdivision or interlocal entity issued to the impact board and
795 payable from the net revenues of a throughput infrastructure project.

796 (b) An instrument described in Subsection (5)(a)(iii) may be:

797 (i) non-recourse to the local political subdivision or interlocal entity; and

798 (ii) limited to a pledge of the net revenues from a throughput infrastructure project.

799 (6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate
800 from the Throughput Infrastructure Fund to the board those amounts that are appropriated by
801 the Legislature for the administration of the Throughput Infrastructure Fund.

802 (b) The amount described in Subsection (6)(a) may not exceed 2% of the annual
803 receipts to the fund.

804 (7) The board shall include in the annual written report described in Section
805 [35A-1-109](#):

806 (a) the number and type of loans and grants made under this section; and

807 (b) a list of local political subdivisions or interlocal entities that received assistance
808 under this section.

809 Section 14. Section **41-1a-418** is amended to read:

810 **41-1a-418. Authorized special group license plates.**

811 (1) The division shall only issue special group license plates in accordance with this
812 section through Section [41-1a-422](#) to a person who is specified under this section within the
813 categories listed as follows:

- 814 (a) disability special group license plates issued in accordance with Section [41-1a-420](#);
- 815 (b) honor special group license plates, as in a war hero, which plates are issued for a:
- 816 (i) survivor of the Japanese attack on Pearl Harbor;
- 817 (ii) former prisoner of war;
- 818 (iii) recipient of a Purple Heart;
- 819 (iv) disabled veteran;
- 820 (v) recipient of a gold star award issued by the United States Secretary of Defense; or
- 821 (vi) recipient of a campaign or combat theater award determined by the Department of
- 822 Veterans' and Military Affairs;
- 823 (c) unique vehicle type special group license plates, as for historical, collectors value,
- 824 or other unique vehicle type, which plates are issued for:
- 825 (i) a special interest vehicle;
- 826 (ii) a vintage vehicle;
- 827 (iii) a farm truck; or
- 828 (iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as
- 829 defined in Section [59-13-102](#); or
- 830 (B) beginning on the effective date of rules made by the Department of Transportation
- 831 authorized under Subsection [41-6a-702\(5\)\(b\)](#) and until Subsection (4) applies, a vehicle
- 832 powered by clean fuel that meets the standards established by the Department of Transportation
- 833 in rules authorized under Subsection [41-6a-702\(5\)\(b\)](#);
- 834 (d) recognition special group license plates, which plates are issued for:
- 835 (i) a current member of the Legislature;
- 836 (ii) a current member of the United States Congress;
- 837 (iii) a current member of the National Guard;
- 838 (iv) a licensed amateur radio operator;
- 839 (v) a currently employed, volunteer, or retired firefighter until June 30, 2009;
- 840 (vi) an emergency medical technician;
- 841 (vii) a current member of a search and rescue team; or

842 (viii) a current honorary consulate designated by the United States Department of
843 State; or

844 (e) support special group license plates, as for a contributor to an institution or cause,
845 which plates are issued for a contributor to:

846 (i) an institution's scholastic scholarship fund;

847 (ii) the Division of Wildlife Resources;

848 (iii) the Department of Veterans' and Military Affairs;

849 (iv) the Division of Parks and Recreation;

850 (v) the Department of Agriculture and Food;

851 (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

852 (vii) the Boy Scouts of America;

853 (viii) spay and neuter programs through No More Homeless Pets in Utah;

854 (ix) the Boys and Girls Clubs of America;

855 (x) Utah public education;

856 (xi) programs that provide support to organizations that create affordable housing for
857 those in severe need through the Division of Real Estate;

858 (xii) the Department of Public Safety;

859 (xiii) programs that support Zion National Park;

860 (xiv) beginning on July 1, 2009, programs that provide support to firefighter
861 organizations;

862 (xv) programs that promote bicycle operation and safety awareness;

863 (xvi) programs that conduct or support cancer research;

864 (xvii) programs that create or support autism awareness;

865 (xviii) programs that create or support humanitarian service and educational and
866 cultural exchanges;

867 (xix) programs that conduct or support prostate cancer awareness, screening, detection,
868 or prevention;

869 (xx) programs that support and promote adoptions;

870 (xxi) programs that create or support civil rights education and awareness;
871 (xxii) programs that support issues affecting women and children through an
872 organization affiliated with a national professional men's basketball organization;
873 (xxiii) programs that strengthen youth soccer, build communities, and promote
874 environmental sustainability through an organization affiliated with a professional men's soccer
875 organization;
876 (xxiv) programs that support children with heart disease;
877 (xxv) programs that support the operation and maintenance of the Utah Law
878 Enforcement Memorial; or
879 (xxvi) programs that provide assistance to children with cancer.
880 (2) (a) The division may not issue a new type of special group license plate or decal
881 unless the division receives:
882 (i) (A) a private donation for the start-up fee established under Section [63J-1-504](#) for
883 the production and administrative costs of providing the new special group license plates or
884 decals; or
885 (B) a legislative appropriation for the start-up fee provided under Subsection
886 (2)(a)(i)(A); and
887 (ii) beginning on January 1, 2012, and for the issuance of a support special group
888 license plate authorized in Section [41-1a-422](#), at least 500 completed applications for the new
889 type of support special group license plate or decal to be issued with all fees required under this
890 part for the support special group license plate or decal issuance paid by each applicant.
891 (b) (i) Beginning on January 1, 2012, each participating organization shall collect and
892 hold applications for support special group license plates or decals authorized in Section
893 [41-1a-422](#) on or after January 1, 2012, until it has received at least 500 applications.
894 (ii) Once a participating organization has received at least 500 applications, it shall
895 submit the applications, along with the necessary fees, to the division for the division to begin
896 working on the design and issuance of the new type of support special group license plate or
897 decal to be issued.

898 (iii) Beginning on January 1, 2012, the division may not work on the issuance or design
899 of a new support special group license plate or decal authorized in Section 41-1a-422 until the
900 applications and fees required under this Subsection (2) have been received by the division.

901 (iv) The division shall begin issuance of a new support special group license plate or
902 decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months
903 after receiving the applications and fees required under this Subsection (2).

904 (c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle
905 registration of a motor vehicle that has been issued a firefighter recognition special group
906 license plate unless the applicant is a contributor as defined in Subsection
907 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

908 (ii) A registered owner of a vehicle that has been issued a firefighter recognition
909 special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle
910 registration shall:

911 (A) be a contributor to the Firefighter Support Restricted Account as required under
912 Subsection (2)(c)(i); or

913 (B) replace the firefighter recognition special group license plate with a new license
914 plate.

915 (3) Beginning on July 1, 2011, if a support special group license plate or decal type
916 authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500
917 license plates issued each year for a three consecutive year time period that begins on July 1,
918 the division may not issue that type of support special group license plate or decal to a new
919 applicant beginning on January 1 of the following calendar year after the three consecutive year
920 time period for which that type of support special group license plate or decal has fewer than
921 500 license plates issued each year.

922 (4) Beginning on July 1, 2011, the division may not issue to an applicant a unique
923 vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

924 Section 15. Section 41-6a-520 is amended to read:

925 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**

926 **tests -- Refusal -- Warning, report.**

927 (1) (a) A person operating a motor vehicle in this state is considered to have given the
928 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for
929 the purpose of determining whether the person was operating or in actual physical control of a
930 motor vehicle while:

931 (i) having a blood or breath alcohol content statutorily prohibited under Section
932 [41-6a-502](#), [41-6a-530](#), or [53-3-231](#) [~~or [53-3-232](#)~~];

933 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug
934 under Section [41-6a-502](#); or

935 (iii) having any measurable controlled substance or metabolite of a controlled
936 substance in the person's body in violation of Section [41-6a-517](#).

937 (b) A test or tests authorized under this Subsection (1) must be administered at the
938 direction of a peace officer having grounds to believe that person to have been operating or in
939 actual physical control of a motor vehicle while in violation of any provision under Subsections
940 (1)(a)(i) through (iii).

941 (c) (i) The peace officer determines which of the tests are administered and how many
942 of them are administered.

943 (ii) If a peace officer requests more than one test, refusal by a person to take one or
944 more requested tests, even though the person does submit to any other requested test or tests, is
945 a refusal under this section.

946 (d) (i) A person who has been requested under this section to submit to a chemical test
947 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be
948 administered.

949 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
950 not a defense to taking a test requested by a peace officer, and it is not a defense in any
951 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the
952 requested test or tests.

953 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to

954 submit to the test or tests may result in revocation of the person's license to operate a motor
955 vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of
956 alcohol in the person's body depending on the person's prior driving history, and a three-year
957 prohibition of driving without an ignition interlock device if the person:

958 (i) has been placed under arrest;

959 (ii) has then been requested by a peace officer to submit to any one or more of the
960 chemical tests under Subsection (1); and

961 (iii) refuses to submit to any chemical test requested.

962 (b) (i) Following the warning under Subsection (2)(a), if the person does not
963 immediately request that the chemical test or tests as offered by a peace officer be
964 administered, a peace officer shall, on behalf of the Driver License Division and within 24
965 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's
966 privilege or license to operate a motor vehicle.

967 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the
968 peace officer shall:

969 (A) take the Utah license certificate or permit, if any, of the operator;

970 (B) issue a temporary license certificate effective for only 29 days from the date of
971 arrest; and

972 (C) supply to the operator, in a manner specified by the Driver License Division, basic
973 information regarding how to obtain a hearing before the Driver License Division.

974 (c) A citation issued by a peace officer may, if provided in a manner specified by the
975 Driver License Division, also serve as the temporary license certificate.

976 (d) As a matter of procedure, the peace officer shall submit a signed report, within 10
977 calendar days after the day on which notice is provided under Subsection (2)(b), that:

978 (i) the peace officer had grounds to believe the arrested person was in violation of any
979 provision under Subsections (1)(a)(i) through (iii); and

980 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).

981 (3) Upon the request of the person who was tested, the results of the test or tests shall

982 be made available to the person.

983 (4) (a) The person to be tested may, at the person's own expense, have a physician of
984 the person's own choice administer a chemical test in addition to the test or tests administered
985 at the direction of a peace officer.

986 (b) The failure or inability to obtain the additional test does not affect admissibility of
987 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the
988 test or tests to be taken at the direction of a peace officer.

989 (c) The additional test shall be subsequent to the test or tests administered at the
990 direction of a peace officer.

991 (5) For the purpose of determining whether to submit to a chemical test or tests, the
992 person to be tested does not have the right to consult an attorney or have an attorney, physician,
993 or other person present as a condition for the taking of any test.

994 Section 16. Section **41-6a-521** is amended to read:

995 **41-6a-521. Revocation hearing for refusal -- Appeal.**

996 (1) (a) A person who has been notified of the Driver License Division's intention to
997 revoke the person's license under Section [41-6a-520](#) is entitled to a hearing.

998 (b) A request for the hearing shall be made in writing within 10 calendar days after the
999 day on which notice is provided.

1000 (c) Upon request in a manner specified by the Driver License Division, the Driver
1001 License Division shall grant to the person an opportunity to be heard within 29 days after the
1002 date of arrest.

1003 (d) If the person does not make a request for a hearing before the Driver License
1004 Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state
1005 is revoked beginning on the 30th day after the date of arrest:

1006 (i) for a person 21 years of age or older on the date of arrest, for a period of:

1007 (A) 18 months, unless Subsection (1)(d)(i)(B) applies; or

1008 (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a
1009 previous:

1010 (I) license sanction for an offense that occurred within the previous 10 years from the
1011 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231~~[-or~~
1012 ~~53-3-232~~]; or

1013 (II) conviction for an offense that occurred within the previous 10 years from the date
1014 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
1015 constitute a violation of Section 41-6a-502;

1016 (ii) for a person under 21 years of age on the date of arrest:

1017 (A) until the person is 21 years of age or for a period of two years, whichever is longer,
1018 if the arrest was made on or after July 1, 2011, unless Subsection (1)(d)(ii)(B) applies; or

1019 (B) until the person is 21 years of age or for a period of 36 months, whichever is
1020 longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

1021 (I) license sanction for an offense that occurred within the previous 10 years from the
1022 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231~~[-or~~
1023 ~~53-3-232~~]; or

1024 (II) conviction for an offense that occurred within the previous 10 years from the date
1025 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
1026 constitute a violation of Section 41-6a-502; or

1027 (iii) for a person that was arrested prior to July 1, 2009, for the suspension periods in
1028 effect prior to July 1, 2009.

1029 (2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person,
1030 the hearing shall be conducted by the Driver License Division in:

1031 (i) the county in which the offense occurred; or

1032 (ii) a county which is adjacent to the county in which the offense occurred.

1033 (b) The Driver License Division may hold a hearing in some other county if the Driver
1034 License Division and the person both agree.

1035 (3) The hearing shall be documented and shall cover the issues of:

1036 (a) whether a peace officer had reasonable grounds to believe that a person was
1037 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or

1038 53-3-231[, or 53-3-232]; and

1039 (b) whether the person refused to submit to the test or tests under Section 41-6a-520.

1040 (4) (a) In connection with the hearing, the division or its authorized agent:

1041 (i) may administer oaths and may issue subpoenas for the attendance of witnesses and
1042 the production of relevant books and papers; and

1043 (ii) shall issue subpoenas for the attendance of necessary peace officers.

1044 (b) The Driver License Division shall pay witness fees and mileage from the
1045 Transportation Fund in accordance with the rates established in Section 78B-1-119.

1046 (5) (a) If after a hearing, the Driver License Division determines that the person was
1047 requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the
1048 person fails to appear before the Driver License Division as required in the notice, the Driver
1049 License Division shall revoke the person's license or permit to operate a motor vehicle in Utah
1050 beginning on the date the hearing is held:

1051 (i) for a person 21 years of age or older on the date of arrest, for a period of:

1052 (A) 18 months unless Subsection (5)(a)(i)(B) applies; or

1053 (B) 36 months, if the arrest was made on or after July 1, 2009, and the person has had a
1054 previous:

1055 (I) license sanction for an offense that occurred within the previous 10 years from the
1056 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231[, or
1057 53-3-232]; or

1058 (II) conviction for an offense that occurred within the previous 10 years from the date
1059 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
1060 constitute a violation of Section 41-6a-502;

1061 (ii) for a person under 21 years of age on the date of arrest:

1062 (A) until the person is 21 years of age or for a period of two years, whichever is longer,
1063 for an arrest that was made on or after July 1, 2011, and unless Subsection (5)(a)(ii)(B) applies;
1064 or

1065 (B) until the person is 21 years of age or for a period of 36 months, whichever is

1066 longer, if the arrest was made on or after July 1, 2009, and the person has had a previous:

1067 (I) license sanction for an offense that occurred within the previous 10 years from the
1068 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231~~;~~
1069 ~~53-3-232~~]; or

1070 (II) conviction for an offense that occurred within the previous 10 years from the date
1071 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
1072 constitute a violation of Section 41-6a-502; or

1073 (iii) for a person that was arrested prior to July 1, 2009, for the revocation periods in
1074 effect prior to July 1, 2009.

1075 (b) The Driver License Division shall also assess against the person, in addition to any
1076 fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid
1077 before the person's driving privilege is reinstated, to cover administrative costs.

1078 (c) The fee shall be cancelled if the person obtains an unappealed court decision
1079 following a proceeding allowed under Subsection (2) that the revocation was improper.

1080 (6) (a) Any person whose license has been revoked by the Driver License Division
1081 under this section following an administrative hearing may seek judicial review.

1082 (b) Judicial review of an informal adjudicative proceeding is a trial.

1083 (c) Venue is in the district court in the county in which the offense occurred.

1084 Section 17. Section 41-6a-524 is amended to read:

1085 **41-6a-524. Refusal as evidence.**

1086 If a person under arrest refuses to submit to a chemical test or tests or any additional
1087 test under Section 41-6a-520, evidence of any refusal is admissible in any civil or criminal
1088 action or proceeding arising out of acts alleged to have been committed while the person was
1089 operating or in actual physical control of a motor vehicle while:

1090 (1) under the influence of:

1091 (a) alcohol;

1092 (b) any drug; or

1093 (c) a combination of alcohol and any drug;

1094 (2) having any measurable controlled substance or metabolite of a controlled substance
1095 in the person's body; or

1096 (3) having any measurable or detectable amount of alcohol in the person's body if the
1097 person is an alcohol restricted driver as defined under Section 41-6a-529[~~or~~].

1098 [~~(4) having any measurable or detectable amount of alcohol in the person's body if the~~
1099 ~~person has been issued a conditional license under Section 53-3-232.~~]

1100 Section 18. Section 41-6a-527 is amended to read:

1101 **41-6a-527. Seizure and impoundment of vehicles by peace officers -- Impound**
1102 **requirements -- Removal of vehicle by owner.**

1103 (1) If a peace officer arrests, cites, or refers for administrative action the operator of a
1104 vehicle for violating Section 41-6a-502, 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-530,
1105 41-6a-606, 53-3-231, [~~53-3-232~~], Subsections 53-3-227(3)(a)(i) through (vi), Subsection
1106 53-3-227(3)(a)(ix), or a local ordinance similar to Section 41-6a-502 which complies with
1107 Subsection 41-6a-510(1), the peace officer shall seize and impound the vehicle in accordance
1108 with Section 41-6a-1406, except as provided under Subsection (2).

1109 (2) If a registered owner of the vehicle, other than the operator, is present at the time of
1110 arrest, the peace officer may release the vehicle to that registered owner, but only if:

1111 (a) the registered owner:

1112 (i) requests to remove the vehicle from the scene; and

1113 (ii) presents to the peace officer sufficient identification to prove ownership of the
1114 vehicle or motorboat;

1115 (b) the registered owner identifies a driver with a valid operator's license who:

1116 (i) complies with all restrictions of his operator's license; and

1117 (ii) would not, in the judgment of the officer, be in violation of Section 41-6a-502,
1118 41-6a-517, 41-6a-518.2, 41-6a-520, 41-6a-530, 53-3-231, [~~53-3-232~~], or a local ordinance
1119 similar to Section 41-6a-502 which complies with Subsection 41-6a-510(1) if permitted to
1120 operate the vehicle; and

1121 (c) the vehicle itself is legally operable.

1122 (3) If necessary for transportation of a motorboat for impoundment under this section,
1123 the motorboat's trailer may be used to transport the motorboat.

1124 Section 19. Section **41-6a-606** is amended to read:

1125 **41-6a-606. Speed contest or exhibition on highway -- Barricade or obstruction.**

1126 (1) A person may not engage in any motor vehicle speed contest or exhibition of speed
1127 on a highway.

1128 (2) A person may not, in any manner, obstruct or place any barricade or obstruction or
1129 assist or participate in placing any barricade or obstruction upon any highway for any purpose
1130 prohibited under Subsection (1).

1131 (3) A person who violates Subsection (1) is guilty of a class B misdemeanor.

1132 (4) (a) In addition to the penalty provided under this section or any other section, a
1133 person who violates Subsection (1) shall have the person's driver license suspended under
1134 Subsection **53-3-220**(1)(a)[~~(xvi)~~](xv) for a period of:

1135 (i) 60 days for a first offense; and

1136 (ii) 90 days for a second offense within three years of a prior offense.

1137 (b) The court shall forward the report of the conviction to the Driver License Division
1138 in accordance with Section **53-3-218**.

1139 Section 20. Section **53-3-220** is amended to read:

1140 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
1141 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
1142 **Limited driving privileges.**

1143 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
1144 6a, Traffic Code, or Section **76-5-303**, specifically provides for denial, suspension, or
1145 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
1146 receiving a record of the person's conviction for:

1147 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
1148 automobile homicide under Section **76-5-207** or **76-5-207.5**;

1149 (ii) driving or being in actual physical control of a motor vehicle while under the

1150 influence of alcohol, any drug, or combination of them to a degree that renders the person
1151 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
1152 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

1153 (iii) driving or being in actual physical control of a motor vehicle while having a blood
1154 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
1155 that complies with the requirements of Subsection 41-6a-510(1);

1156 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
1157 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
1158 regulating driving on highways;

1159 (v) any felony under the motor vehicle laws of this state;

1160 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

1161 (vii) failure to stop and render aid as required under the laws of this state if a motor
1162 vehicle accident results in the death or personal injury of another;

1163 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
1164 driving and impaired driving committed within a period of 12 months; but if upon a first
1165 conviction of reckless driving or impaired driving the judge or justice recommends suspension
1166 of the convicted person's license, the division may after a hearing suspend the license for a
1167 period of three months;

1168 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as
1169 required in Section 41-6a-210;

1170 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
1171 requires disqualification;

1172 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
1173 allowing the discharge of a firearm from a vehicle;

1174 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
1175 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

1176 (xiii) operating or being in actual physical control of a motor vehicle while having any
1177 measurable controlled substance or metabolite of a controlled substance in the person's body in

- 1178 violation of Section [41-6a-517](#);
- 1179 ~~[(xiv) until July 30, 2015, operating or being in actual physical control of a motor~~
1180 ~~vehicle while having any alcohol in the person's body in violation of Section [53-3-232](#);~~
- 1181 ~~[(xv)]~~ (xiv) operating or being in actual physical control of a motor vehicle while
1182 having any measurable or detectable amount of alcohol in the person's body in violation of
1183 Section [41-6a-530](#);
- 1184 ~~[(xvi)]~~ (xv) engaging in a motor vehicle speed contest or exhibition of speed on a
1185 highway in violation of Section [41-6a-606](#);
- 1186 ~~[(xvii)]~~ (xvi) operating or being in actual physical control of a motor vehicle in this
1187 state without an ignition interlock system in violation of Section [41-6a-518.2](#); or
- 1188 ~~[(xviii)]~~ (xvii) custodial interference, under:
- 1189 (A) Subsection [76-5-303\(3\)](#), which suspension shall be for a period of 30 days, unless
1190 the court provides the division with an order of suspension for a shorter period of time;
- 1191 (B) Subsection [76-5-303\(4\)](#), which suspension shall be for a period of 90 days, unless
1192 the court provides the division with an order of suspension for a shorter period of time; or
- 1193 (C) Subsection [76-5-303\(5\)](#), which suspension shall be for a period of 180 days, unless
1194 the court provides the division with an order of suspension for a shorter period of time.
- 1195 (b) The division shall immediately revoke the license of a person upon receiving a
1196 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act ~~[of 1996]~~, for:
- 1197 (i) a felony violation of Section [76-10-508](#) or [76-10-508.1](#) involving discharging or
1198 allowing the discharge of a firearm from a vehicle; or
- 1199 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
1200 incendiary device from a vehicle in violation of Subsection [76-10-306\(4\)\(b\)](#).
- 1201 (c) Except when action is taken under Section [53-3-219](#) for the same offense, the
1202 division shall immediately suspend for six months the license of a person upon receiving a
1203 record of conviction for:
- 1204 (i) any violation of:
- 1205 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

1206 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
1207 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
1208 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
1209 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
1210 (ii) any criminal offense that prohibits:
1211 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
1212 that is prohibited under the acts described in Subsection (1)(c)(i); or
1213 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
1214 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).
1215 (d) (i) The division shall immediately suspend a person's driver license for conviction
1216 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:
1217 (A) an order from the sentencing court requiring that the person's driver license be
1218 suspended; and
1219 (B) a record of the conviction.
1220 (ii) An order of suspension under this section is at the discretion of the sentencing
1221 court, and may not be for more than 90 days for each offense.
1222 (e) (i) The division shall immediately suspend for one year the license of a person upon
1223 receiving a record of:
1224 (A) conviction for the first time for a violation under Section 32B-4-411; or
1225 (B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act [~~of 1996~~], for a
1226 violation under Section 32B-4-411.
1227 (ii) The division shall immediately suspend for a period of two years the license of a
1228 person upon receiving a record of:
1229 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and
1230 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior
1231 conviction for a violation under Section 32B-4-411; or
1232 (B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court
1233 Act of 1996, for a violation under Section 32B-4-411; and

1234 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior
1235 adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under
1236 Section 32B-4-411.

1237 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

1238 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

1239 (I) impose a suspension for one year beginning on the date of conviction; or

1240 (II) if the person is under the age of eligibility for a driver license, impose a suspension
1241 that begins on the date of conviction and continues for one year beginning on the date of
1242 eligibility for a driver license; or

1243 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

1244 (I) impose a suspension for a period of two years; or

1245 (II) if the person is under the age of eligibility for a driver license, impose a suspension
1246 that begins on the date of conviction and continues for two years beginning on the date of
1247 eligibility for a driver license.

1248 (iv) Upon receipt of the first order suspending a person's driving privileges under
1249 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
1250 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

1251 (v) Upon receipt of the second or subsequent order suspending a person's driving
1252 privileges under Section 32B-4-411, the division shall reduce the suspension period under
1253 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

1254 (2) The division shall extend the period of the first denial, suspension, revocation, or
1255 disqualification for an additional like period, to a maximum of one year for each subsequent
1256 occurrence, upon receiving:

1257 (a) a record of the conviction of any person on a charge of driving a motor vehicle
1258 while the person's license is denied, suspended, revoked, or disqualified;

1259 (b) a record of a conviction of the person for any violation of the motor vehicle law in
1260 which the person was involved as a driver;

1261 (c) a report of an arrest of the person for any violation of the motor vehicle law in

1262 which the person was involved as a driver; or

1263 (d) a report of an accident in which the person was involved as a driver.

1264 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
1265 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
1266 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
1267 or revocation originally imposed under Section 53-3-221.

1268 (4) (a) The division may extend to a person the limited privilege of driving a motor
1269 vehicle to and from the person's place of employment or within other specified limits on
1270 recommendation of the judge in any case where a person is convicted of any of the offenses
1271 referred to in Subsections (1) and (2) except:

1272 (i) automobile homicide under Subsection (1)(a)(i);

1273 (ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and
1274 (1)(c); and

1275 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
1276 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
1277 41-6a-517, a local ordinance which complies with the requirements of Subsection
1278 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
1279 was charged with violating as a result of a plea bargain after having been originally charged
1280 with violating one or more of these sections or ordinances, unless:

1281 (A) the person has had the period of the first denial, suspension, revocation, or
1282 disqualification extended for a period of at least three years;

1283 (B) the division receives written verification from the person's primary care physician
1284 that:

1285 (I) to the physician's knowledge the person has not used any narcotic drug or other
1286 controlled substance except as prescribed by a licensed medical practitioner within the last
1287 three years; and

1288 (II) the physician is not aware of any physical, emotional, or mental impairment that
1289 would affect the person's ability to operate a motor vehicle safely; and

1290 (C) for a period of one year prior to the date of the request for a limited driving
1291 privilege:

1292 (I) the person has not been convicted of a violation of any motor vehicle law in which
1293 the person was involved as the operator of the vehicle;

1294 (II) the division has not received a report of an arrest for a violation of any motor
1295 vehicle law in which the person was involved as the operator of the vehicle; and

1296 (III) the division has not received a report of an accident in which the person was
1297 involved as an operator of a vehicle.

1298 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
1299 authorized in this Subsection (4):

1300 (A) is limited to when undue hardship would result from a failure to grant the
1301 privilege; and

1302 (B) may be granted only once to any person during any single period of denial,
1303 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
1304 or disqualification.

1305 (ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

1306 (A) is limited to when the limited privilege is necessary for the person to commute to
1307 school or work; and

1308 (B) may be granted only once to any person during any single period of denial,
1309 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
1310 or disqualification.

1311 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
1312 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or
1313 denied under this chapter.

1314 Section 21. Section **53A-1-1110** is amended to read:

1315 **53A-1-1110. Letter grade based on percentage of maximum points earned.**

1316 (1) A school shall receive a letter grade based on the percentage of the maximum
1317 number of points the school may earn as calculated under Section **53A-1-1109** as follows:

- 1318 (a) for a school that is not a high school:
- 1319 (i) A, 100%-64%;
- 1320 (ii) B, 63%-51%;
- 1321 (iii) C, 50%-39%;
- 1322 (iv) D, 38%-30%; and
- 1323 (v) F, 29% or less; and
- 1324 (b) for a high school:
- 1325 (i) A, 100%-64%;
- 1326 (ii) B, 63%-51%;
- 1327 (iii) C, 50%-43%;
- 1328 (iv) D, 42%-40%; and
- 1329 (v) F, 39% or less.
- 1330 (2) Notwithstanding Subsection (1), and subject to Subsection (3), for a school year in
- 1331 which at least 65% of schools described in Subsection (1)(a) or (b) receive an A or a B, the
- 1332 board shall increase an endpoint of a range described in Subsection (1)(a) or (b) by five
- 1333 percentage points over the previous school year.
- 1334 (3) (a) Subsection (2) applies until the:
- 1335 (i) lower endpoint of the:
- 1336 (A) A range equals 90%;
- 1337 (B) B range equals 80%;
- 1338 (C) C range equals 70%; and
- 1339 (D) D range equals 60%; and
- 1340 (ii) upper endpoint of the F range equals 59%.
- 1341 (b) The board may increase an endpoint of a range described in Subsection (1)(a) or (b)
- 1342 by less than five percentage points over the previous school year if increasing the endpoint by
- 1343 five percentage points would increase the endpoint above the applicable percentage described
- 1344 in Subsection (3)(a).
- 1345 (c) If the board increases an endpoint of a range as described in this section, the board

1346 shall publish, on the board's website, each letter grade that is assigned to the percentage of
1347 points earned.

1348 (4) Notwithstanding Subsection (1), the board shall lower a school's grade by one letter
1349 grade if:

1350 (a) student participation in a statewide assessment is fewer than 95%; or

1351 (b) the participation of nonproficient students as determined by prior year test scores is
1352 fewer than 95%.

1353 Section 22. Section **53A-1-1403** is amended to read:

1354 **53A-1-1403. State student data protection governance.**

1355 (1) (a) An education entity or a third-party contractor who collects, uses, stores, shares,
1356 or deletes student data shall protect student data as described in this part.

1357 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1358 board shall [~~makes~~] make rules to administer this part, including student data protection
1359 standards for public education employees, student aides, and volunteers.

1360 (2) The board shall oversee the preparation and maintenance of:

1361 (a) a statewide data governance plan; and

1362 (b) a state-level metadata dictionary.

1363 (3) As described in this Subsection (3), the board shall establish advisory groups to
1364 oversee student data protection in the state and make recommendations to the board regarding
1365 student data protection.

1366 (a) The board shall establish a student data policy advisory group:

1367 (i) composed of members from:

1368 (A) the Legislature;

1369 (B) the board and board employees; and

1370 (C) one or more LEAs;

1371 (ii) to discuss and make recommendations to the board regarding:

1372 (A) enacted or proposed legislation; and

1373 (B) state and local student data protection policies across the state;

- 1374 (iii) that reviews and monitors the state student data governance plan; and
1375 (iv) that performs other tasks related to student data protection as designated by the
1376 board.
- 1377 (b) The board shall establish a student data governance advisory group:
- 1378 (i) composed of the state student data officer and other board employees; and
1379 (ii) that performs duties related to state and local student data protection, including:
- 1380 (A) overseeing data collection and usage by board program offices; and
1381 (B) preparing and maintaining the board's student data governance plan under the
1382 direction of the student data policy advisory group.
- 1383 (c) The board shall establish a student data users advisory group:
- 1384 (i) composed of members who use student data at the local level; and
1385 (ii) that provides feedback and suggestions on the practicality of actions proposed by
1386 the student data policy advisory group and the student data governance advisory group.
- 1387 (4) (a) The board shall designate a state student data officer.
- 1388 (b) The state student data officer shall:
- 1389 (i) act as the primary point of contact for state student data protection administration in
1390 assisting the board to administer this part;
- 1391 (ii) ensure compliance with student privacy laws throughout the public education
1392 system, including:
- 1393 (A) providing training and support to applicable board and LEA employees; and
1394 (B) producing resource materials, model plans, and model forms for local student data
1395 protection governance, including a model student data disclosure statement;
- 1396 (iii) investigate complaints of alleged violations of this part;
- 1397 (iv) report violations of this part to:
- 1398 (A) the board;
- 1399 (B) an applicable education entity; and
1400 (C) the student data policy advisory group; and
1401 (v) act as a state level student data manager.

- 1402 (5) The board shall designate:
- 1403 (a) at least one support manager to assist the state student data officer; and
- 1404 (b) a student data protection auditor to assist the state student data officer.
- 1405 (6) The board shall establish an external research review process for a request for data
- 1406 for the purpose of external research or evaluation.

1407 Section 23. Section **53A-16-113** is amended to read:

1408 **53A-16-113. Capital local levy -- First class county required levy -- Allowable**
1409 **uses of collected revenue.**

1410 (1) (a) Subject to the other requirements of this section, a local school board may levy a
1411 tax to fund the school district's capital projects.

1412 (b) A tax rate imposed by a school district pursuant to this section may not exceed
1413 .0030 per dollar of taxable value in any calendar year.

1414 (2) A school district that imposes a capital local levy in the calendar year beginning on
1415 January 1, 2012, is exempt from the public notice and hearing requirements of Section
1416 **59-2-919** if the school district budgets an amount of ad valorem property tax revenue equal to
1417 or less than the sum of the following amounts:

1418 (a) the amount of revenue generated during the calendar year beginning on January 1,
1419 2011, from the sum of the following levies of a school district:

1420 (i) a capital outlay levy imposed under Section **53A-16-107**; and

1421 (ii) the portion of the 10% of basic levy described in Section **53A-17a-145** that is
1422 budgeted for debt service or capital outlay; and

1423 (b) revenue from eligible new growth as defined in Section **59-2-924**.

1424 (3) (a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local school
1425 board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the local
1426 school board's annual capital local levy for general fund purposes if the proceeds are not
1427 committed or dedicated to pay debt service or bond payments.

1428 (b) If a local school board uses the proceeds described in Subsection (3)(a) for general
1429 fund purposes, the local school board shall notify the public of the local school board's use of

1430 the capital local levy proceeds for general fund purposes:

1431 (i) ~~[prior to]~~ before the local school board's budget hearing in accordance with the
1432 notification requirements described in Section 53A-19-102; and

1433 (ii) at a budget hearing required in Section 53A-19-102.

1434 (c) A local school board may not use the proceeds described in Subsection (3)(a) to
1435 fund the following accounting function classifications as provided in the Financial Accounting
1436 for Local and State School Systems guidelines developed by the National Center for Education
1437 Statistics:

1438 (i) 2300 Support Services - General District Administration; or

1439 (ii) 2500 Support Services - Central Services.

1440 ~~[(d) A local school board may not use the proceeds from a distribution described in
1441 Subsection (4) for general fund purposes.]~~

1442 Section 24. Section 58-17b-309.6 is amended to read:

1443 **58-17b-309.6. Exemptions from licensure for research using pharmaceuticals.**

1444 Research using pharmaceuticals, as defined in ~~[Subsection]~~ Section 58-17b-102~~[(65)]~~,
1445 is exempt from licensure under Sections 58-17b-301 and 58-17b-302.

1446 Section 25. Section 58-37f-304 is amended to read:

1447 **58-37f-304. Database utilization.**

1448 (1) As used in this section:

1449 (a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, or
1450 the pharmacist's licensed intern, as described in Section 58-17b-304, who is also licensed to
1451 dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

1452 (b) "Opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

1453 (c) "Outpatient" means a setting in which an individual visits a licensed healthcare
1454 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a
1455 licensed healthcare facility for an overnight stay.

1456 (d) "Prescriber" means an individual authorized to prescribe a controlled substance
1457 under Title 58, Chapter 37, Utah Controlled Substances Act.

1458 (2) To address the serious public health concern of life-altering and life-threatening
1459 opioid abuse and overdose, and to achieve the purposes of this chapter and as described in
1460 Section 58-37f-201, which includes identifying and reducing the prescribing and dispensing of
1461 opioids in an unprofessional or unlawful manner or in quantities or frequencies inconsistent
1462 with generally recognized standards of dosage for an opioid, through utilization of the carefully
1463 developed and highly respected database:

1464 (a) a prescriber or dispenser of an opioid for individual outpatient usage shall access
1465 and review the database as necessary in the prescriber's or dispenser's professional judgment
1466 and to achieve the purpose of this chapter as described in Section 58-37f-201; and

1467 (b) a prescriber may assign the access and review required under Subsection (2)(a) to
1468 an employee, in accordance with Subsections 58-37f-301(2)(g) and (h).

1469 (3) The division shall, in collaboration with the licensing boards for prescribers and
1470 dispensers:

1471 (a) develop a system that gathers and reports to prescribers and dispensers the progress
1472 and results of the prescriber's and dispenser's individual access and review of the database, as
1473 provided in this section; and

1474 (b) reduce or waive the division's continuing education requirements regarding opioid
1475 prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to
1476 the database, for prescribers and dispensers whose individual utilization of the database
1477 contribute to the life-saving and public safety purposes of this section and as described in
1478 Subsection (2).

1479 (4) If the dispenser's access and review of the database suggest that the individual
1480 seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with
1481 generally recognized standards as provided in this section and Section 58-37f-201, the
1482 dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed,
1483 current, and professional decision regarding whether the prescribed opioid is medically
1484 justified, notwithstanding the results of the database search.

1485 Section 26. Section 59-1-403 is amended to read:

1486 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

1487 (1) (a) Any of the following may not divulge or make known in any manner any
1488 information gained by that person from any return filed with the commission:

1489 (i) a tax commissioner;

1490 (ii) an agent, clerk, or other officer or employee of the commission; or

1491 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
1492 town.

1493 (b) An official charged with the custody of a return filed with the commission is not
1494 required to produce the return or evidence of anything contained in the return in any action or
1495 proceeding in any court, except:

1496 (i) in accordance with judicial order;

1497 (ii) on behalf of the commission in any action or proceeding under:

1498 (A) this title; or

1499 (B) other law under which persons are required to file returns with the commission;

1500 (iii) on behalf of the commission in any action or proceeding to which the commission
1501 is a party; or

1502 (iv) on behalf of any party to any action or proceeding under this title if the report or
1503 facts shown by the return are directly involved in the action or proceeding.

1504 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
1505 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
1506 pertinent to the action or proceeding.

1507 (2) This section does not prohibit:

1508 (a) a person or that person's duly authorized representative from receiving a copy of
1509 any return or report filed in connection with that person's own tax;

1510 (b) the publication of statistics as long as the statistics are classified to prevent the
1511 identification of particular reports or returns; and

1512 (c) the inspection by the attorney general or other legal representative of the state of the
1513 report or return of any taxpayer:

- 1514 (i) who brings action to set aside or review a tax based on the report or return;
- 1515 (ii) against whom an action or proceeding is contemplated or has been instituted under
- 1516 this title; or
- 1517 (iii) against whom the state has an unsatisfied money judgment.
- 1518 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
- 1519 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1520 Rulemaking Act, provide for a reciprocal exchange of information with:
- 1521 (i) the United States Internal Revenue Service; or
- 1522 (ii) the revenue service of any other state.
- 1523 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
- 1524 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
- 1525 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
- 1526 other written statements with the federal government, any other state, any of the political
- 1527 subdivisions of another state, or any political subdivision of this state, except as limited by
- 1528 Sections [59-12-209](#) and [59-12-210](#), if the political subdivision, other state, or the federal
- 1529 government grant substantially similar privileges to this state.
- 1530 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
- 1531 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
- 1532 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
- 1533 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
- 1534 due.
- 1535 (d) Notwithstanding Subsection (1), the commission shall provide to the director of the
- 1536 Division of Environmental Response and Remediation, as defined in Section [19-6-402](#), as
- 1537 requested by the director of the Division of Environmental Response and Remediation, any
- 1538 records, returns, or other information filed with the commission under Chapter 13, Motor and
- 1539 Special Fuel Tax Act, or Section [19-6-410.5](#) regarding the environmental assurance program
- 1540 participation fee.
- 1541 (e) Notwithstanding Subsection (1), at the request of any person the commission shall

1542 provide that person sales and purchase volume data reported to the commission on a report,
1543 return, or other information filed with the commission under:

1544 (i) Chapter 13, Part 2, Motor Fuel; or

1545 (ii) Chapter 13, Part 4, Aviation Fuel.

1546 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
1547 as defined in Section 59-22-202, the commission shall report to the manufacturer:

1548 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
1549 manufacturer and reported to the commission for the previous calendar year under Section
1550 59-14-407; and

1551 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
1552 manufacturer for which a tax refund was granted during the previous calendar year under
1553 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

1554 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
1555 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
1556 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

1557 (h) Notwithstanding Subsection (1), the commission may:

1558 (i) provide to the Division of Consumer Protection within the Department of
1559 Commerce and the attorney general data:

1560 (A) reported to the commission under Section 59-14-212; or

1561 (B) related to a violation under Section 59-14-211; and

1562 (ii) upon request, provide to any person data reported to the commission under
1563 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

1564 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
1565 of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of
1566 Management and Budget, provide to the committee or office the total amount of revenues
1567 collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the
1568 time period specified by the committee or office.

1569 (j) Notwithstanding Subsection (1), the commission shall make the directory required

1570 by Section 59-14-603 available for public inspection.

1571 (k) Notwithstanding Subsection (1), the commission may share information with
 1572 federal, state, or local agencies as provided in Subsection 59-14-606(3).

1573 (l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
 1574 Recovery Services within the Department of Human Services any relevant information
 1575 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
 1576 who has become obligated to the Office of Recovery Services.

1577 (ii) The information described in Subsection (3)(l)(i) may be provided by the Office of
 1578 Recovery Services to any other state's child support collection agency involved in enforcing
 1579 that support obligation.

1580 (m) (i) Notwithstanding Subsection (1), upon request from the state court
 1581 administrator, the commission shall provide to the state court administrator, the name, address,
 1582 telephone number, county of residence, and social security number on resident returns filed
 1583 under Chapter 10, Individual Income Tax Act.

1584 (ii) The state court administrator may use the information described in Subsection
 1585 (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

1586 ~~[(n) Notwithstanding Subsection (1), the commission shall at the request of a~~
 1587 ~~committee, commission, or task force of the Legislature provide to the committee, commission,~~
 1588 ~~or task force of the Legislature any information relating to a tax imposed under Chapter 9,~~
 1589 ~~Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.]~~

1590 ~~[(o)]~~ (n) (i) As used in this Subsection (3)~~[(o)]~~(n), "office" means the:

- 1591 (A) Office of the Legislative Fiscal Analyst; or
- 1592 (B) Office of Legislative Research and General Counsel.

1593 (ii) Notwithstanding Subsection (1) and except as provided in Subsection
 1594 (3)~~[(o)]~~(n)(iii), the commission shall at the request of an office provide to the office all
 1595 information:

- 1596 (A) gained by the commission; and
- 1597 (B) required to be attached to or included in returns filed with the commission.

1598 (iii) (A) An office may not request and the commission may not provide to an office a
1599 person's:

- 1600 (I) address;
- 1601 (II) name;
- 1602 (III) social security number; or
- 1603 (IV) taxpayer identification number.

1604 (B) The commission shall in all instances protect the privacy of a person as required by
1605 Subsection (3)[(t)](n)(iii)(A).

1606 (iv) An office may provide information received from the commission in accordance
1607 with this Subsection (3)[(t)](n) only:

- 1608 (A) as:
 - 1609 (I) a fiscal estimate;
 - 1610 (II) fiscal note information; or
 - 1611 (III) statistical information; and

1612 (B) if the information is classified to prevent the identification of a particular return.

1613 (v) (A) A person may not request information from an office under Title 63G, Chapter
1614 2, Government Records Access and Management Act, or this section, if that office received the
1615 information from the commission in accordance with this Subsection (3)[(t)](n).

1616 (B) An office may not provide to a person that requests information in accordance with
1617 Subsection (3)[(t)](n)(v)(A) any information other than the information the office provides in
1618 accordance with Subsection (3)[(t)](n)(iv).

1619 [(p)] (o) Notwithstanding Subsection (1), the commission may provide to the
1620 governing board of the agreement or a taxing official of another state, the District of Columbia,
1621 the United States, or a territory of the United States:

- 1622 (i) the following relating to an agreement sales and use tax:
 - 1623 (A) information contained in a return filed with the commission;
 - 1624 (B) information contained in a report filed with the commission;
 - 1625 (C) a schedule related to Subsection (3)[(p)](o)(i)(A) or (B); or

1626 (D) a document filed with the commission; or
1627 (ii) a report of an audit or investigation made with respect to an agreement sales and
1628 use tax.

1629 ~~[(t)]~~ (p) Notwithstanding Subsection (1), the commission may provide information
1630 concerning a taxpayer's state income tax return or state income tax withholding information to
1631 the Driver License Division if the Driver License Division:

- 1632 (i) requests the information; and
- 1633 (ii) provides the commission with a signed release form from the taxpayer allowing the
1634 Driver License Division access to the information.

1635 ~~[(r)]~~ (q) Notwithstanding Subsection (1), the commission shall provide to the Utah
1636 Communications Authority, or a division of the Utah Communications Authority, the
1637 information requested by the authority under Sections [63H-7a-302](#), [63H-7a-402](#), and
1638 [63H-7a-502](#).

1639 ~~[(s)]~~ (r) Notwithstanding Subsection (1), the commission shall provide to the Utah
1640 Educational Savings Plan information related to a resident or nonresident individual's
1641 contribution to a Utah Educational Savings Plan account as designated on the resident or
1642 nonresident's individual income tax return as provided under Section [59-10-1313](#).

1643 ~~[(t)]~~ (s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under
1644 Sections [26-18-2.5](#) and [26-40-105](#), the commission shall provide an eligibility worker with the
1645 Department of Health or its designee with the adjusted gross income of an individual if:

- 1646 (i) an eligibility worker with the Department of Health or its designee requests the
1647 information from the commission; and
- 1648 (ii) the eligibility worker has complied with the identity verification and consent
1649 provisions of Sections [26-18-2.5](#) and [26-40-105](#).

1650 ~~[(u)]~~ (t) Notwithstanding Subsection (1), the commission may provide to a county, as
1651 determined by the commission, information declared on an individual income tax return in
1652 accordance with Section [59-10-103.1](#) that relates to eligibility to claim a residential exemption
1653 authorized under Section [59-2-103](#).

1654 (4) (a) Each report and return shall be preserved for at least three years.

1655 (b) After the three-year period provided in Subsection (4)(a) the commission may
1656 destroy a report or return.

1657 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

1658 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
1659 the person shall be dismissed from office and be disqualified from holding public office in this
1660 state for a period of five years thereafter.

1661 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
1662 accordance with Subsection (3)~~(t)~~(n)(iii) or a person that requests information in accordance
1663 with Subsection (3)~~(t)~~(n)(v):

1664 (i) is not guilty of a class A misdemeanor; and

1665 (ii) is not subject to:

1666 (A) dismissal from office in accordance with Subsection (5)(b); or

1667 (B) disqualification from holding public office in accordance with Subsection (5)(b).

1668 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.
1669 Section 27. Section 59-7-302 is amended to read:

1670 **59-7-302. Definitions.**

1671 (1) As used in this part, unless the context otherwise requires:

1672 (a) "Aircraft type" means a particular model of aircraft as designated by the
1673 manufacturer of the aircraft.

1674 (b) "Airline" means the same as that term is defined in Section 59-2-102.

1675 (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during
1676 the airline's tax period.

1677 (d) "Business income" means income arising from transactions and activity in the
1678 regular course of the taxpayer's trade or business and includes income from tangible and
1679 intangible property if the acquisition, management, and disposition of the property constitutes
1680 integral parts of the taxpayer's regular trade or business operations.

1681 (e) "Commercial domicile" means the principal place from which the trade or business

1682 of the taxpayer is directed or managed.

1683 (f) "Compensation" means wages, salaries, commissions, and any other form of
1684 remuneration paid to employees for personal services.

1685 (g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as
1686 defined in Section 59-2-102.

1687 (ii) "Mobile flight equipment" does not include:

1688 (A) a spare engine; or

1689 (B) tangible personal property described in Subsection 59-2-102(27) owned by an:

1690 (I) air charter service; or

1691 (II) air contract service.

1692 (h) "Nonbusiness income" means all income other than business income.

1693 (i) "Optional sales factor weighted taxpayer" means:

1694 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
1695 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
1696 everywhere generated by economic activities performed by the taxpayer if the economic
1697 activities are classified in a NAICS code within NAICS Subsector 334, computer and
1698 electronic products manufacturing, of the 2002 or 2007 North American Industry Classification
1699 System of the federal Executive Office of the President, Office of Management and Budget; or

1700 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
1701 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
1702 the economic activities are classified in a NAICS code within NAICS Subsector 334, computer
1703 and electronic products manufacturing, of the 2002 or 2007 North American Industry
1704 Classification System of the federal Executive Office of the President, Office of Management
1705 and Budget.

1706 (j) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

1707 (k) "Sales" means all gross receipts of the taxpayer not allocated under Sections
1708 59-7-306 through 59-7-310.

1709 (l) Subject to Subsection (2), "sales factor weighted taxpayer" means:

1710 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
1711 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
1712 everywhere generated by economic activities performed by the taxpayer if the economic
1713 activities are classified in a NAICS code of the 2002 or 2007 North American Industry
1714 Classification System of the federal Executive Office of the President, Office of Management
1715 and Budget, except for:

- 1716 (A) a NAICS code within NAICS Sector 21, Mining;
- 1717 (B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;
- 1718 (C) a NAICS code within NAICS Sector 31-33, Manufacturing;
- 1719 (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;
- 1720 (E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector
1721 519, Other Information Services; or
- 1722 (F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

1723 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
1724 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
1725 the economic activities are classified in a NAICS code of the 2002 or 2007 North American
1726 Industry Classification System of the federal Executive Office of the President, Office of
1727 Management and Budget, except for a NAICS code under Subsections (1)(l)(i)(A) through (F).

1728 (m) "State" means any state of the United States, the District of Columbia, the
1729 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
1730 foreign country or political subdivision thereof.

1731 (n) "Transportation revenue" means revenue an airline earns from:

- 1732 (i) transporting a passenger or cargo; or
- 1733 (ii) from miscellaneous sales of merchandise as part of providing transportation
1734 services.

1735 (o) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within
1736 the borders of this state:

- 1737 (i) during the airline's tax period; and

1738 (ii) from flight stages that originate or terminate in this state.

1739 (2) The following apply to Subsection (1)(1):

1740 (a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each
1741 taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

1742 (ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the
1743 due date for filing the taxpayer's return under this chapter for the taxable year, including
1744 extensions.

1745 (iii) For purposes of making the determination required by Subsection (2)(a)(i), total
1746 sales everywhere include only the total sales everywhere:

1747 (A) as determined in accordance with this part; and

1748 (B) made during the taxable year for which a taxpayer makes the determination
1749 required by Subsection (2)(a)(i).

1750 (b) A taxpayer that files a return as a unitary group for a taxable year is considered to
1751 be a unitary group for that taxable year.

1752 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1753 commission may define the term "economic activity" consistent with the use of the term
1754 "activity" in the 2007 North American Industry Classification System of the federal Executive
1755 Office of the President, Office of Management and Budget.

1756 Section 28. Section **59-12-102** is amended to read:

1757 **59-12-102. Definitions.**

1758 As used in this chapter:

1759 (1) "800 service" means a telecommunications service that:

1760 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

1761 (b) is typically marketed:

1762 (i) under the name 800 toll-free calling;

1763 (ii) under the name 855 toll-free calling;

1764 (iii) under the name 866 toll-free calling;

1765 (iv) under the name 877 toll-free calling;

- 1766 (v) under the name 888 toll-free calling; or
- 1767 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
- 1768 Federal Communications Commission.
- 1769 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 1770 (i) a subscriber purchases;
- 1771 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 1772 the subscriber's:
- 1773 (A) prerecorded announcement; or
- 1774 (B) live service; and
- 1775 (iii) is typically marketed:
- 1776 (A) under the name 900 service; or
- 1777 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 1778 Communications Commission.
- 1779 (b) "900 service" does not include a charge for:
- 1780 (i) a collection service a seller of a telecommunications service provides to a
- 1781 subscriber; or
- 1782 (ii) the following a subscriber sells to the subscriber's customer:
- 1783 (A) a product; or
- 1784 (B) a service.
- 1785 (3) (a) "Admission or user fees" includes season passes.
- 1786 (b) "Admission or user fees" does not include annual membership dues to private
- 1787 organizations.
- 1788 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 1789 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 1790 Agreement after November 12, 2002.
- 1791 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 1792 (a) listed under Subsection (6); and
- 1793 (b) that are imposed within a local taxing jurisdiction.

- 1794 (6) "Agreement sales and use tax" means a tax imposed under:
- 1795 (a) Subsection 59-12-103(2)(a)(i)(A);
- 1796 (b) Subsection 59-12-103(2)(b)(i);
- 1797 (c) Subsection 59-12-103(2)(c)(i);
- 1798 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 1799 (e) Section 59-12-204;
- 1800 (f) Section 59-12-401;
- 1801 (g) Section 59-12-402;
- 1802 (h) Section 59-12-402.1;
- 1803 (i) Section 59-12-703;
- 1804 (j) Section 59-12-802;
- 1805 (k) Section 59-12-804;
- 1806 (l) Section 59-12-1102;
- 1807 (m) Section 59-12-1302;
- 1808 (n) Section 59-12-1402;
- 1809 (o) Section 59-12-1802;
- 1810 (p) Section 59-12-2003;
- 1811 (q) Section 59-12-2103;
- 1812 (r) Section 59-12-2213;
- 1813 (s) Section 59-12-2214;
- 1814 (t) Section 59-12-2215;
- 1815 (u) Section 59-12-2216;
- 1816 (v) Section 59-12-2217; or
- 1817 (w) Section 59-12-2218.
- 1818 (7) "Aircraft" ~~[is as]~~ means the same as that term is defined in Section 72-10-102.
- 1819 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1820 (a) except for:
- 1821 (i) an airline as defined in Section 59-2-102; or

1822 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
1823 includes a corporation that is qualified to do business but is not otherwise doing business in the
1824 state, of an airline; and

1825 (b) that has the workers, expertise, and facilities to perform the following, regardless of
1826 whether the business entity performs the following in this state:

1827 (i) check, diagnose, overhaul, and repair:

1828 (A) an onboard system of a fixed wing turbine powered aircraft; and

1829 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

1830 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
1831 engine;

1832 (iii) perform at least the following maintenance on a fixed wing turbine powered
1833 aircraft:

1834 (A) an inspection;

1835 (B) a repair, including a structural repair or modification;

1836 (C) changing landing gear; and

1837 (D) addressing issues related to an aging fixed wing turbine powered aircraft;

1838 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
1839 completely apply new paint to the fixed wing turbine powered aircraft; and

1840 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
1841 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
1842 authority that certifies the fixed wing turbine powered aircraft.

1843 (9) "Alcoholic beverage" means a beverage that:

1844 (a) is suitable for human consumption; and

1845 (b) contains .5% or more alcohol by volume.

1846 (10) "Alternative energy" means:

1847 (a) biomass energy;

1848 (b) geothermal energy;

1849 (c) hydroelectric energy;

- 1850 (d) solar energy;
- 1851 (e) wind energy; or
- 1852 (f) energy that is derived from:
 - 1853 (i) coal-to-liquids;
 - 1854 (ii) nuclear fuel;
 - 1855 (iii) oil-impregnated diatomaceous earth;
 - 1856 (iv) oil sands;
 - 1857 (v) oil shale;
 - 1858 (vi) petroleum coke; or
 - 1859 (vii) waste heat from:
 - 1860 (A) an industrial facility; or
 - 1861 (B) a power station in which an electric generator is driven through a process in which
 - 1862 water is heated, turns into steam, and spins a steam turbine.
- 1863 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 1864 facility" means a facility that:
 - 1865 (i) uses alternative energy to produce electricity; and
 - 1866 (ii) has a production capacity of two megawatts or greater.
- 1867 (b) A facility is an alternative energy electricity production facility regardless of
- 1868 whether the facility is:
 - 1869 (i) connected to an electric grid; or
 - 1870 (ii) located on the premises of an electricity consumer.
- 1871 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 1872 provision of telecommunications service.
 - 1873 (b) "Ancillary service" includes:
 - 1874 (i) a conference bridging service;
 - 1875 (ii) a detailed communications billing service;
 - 1876 (iii) directory assistance;
 - 1877 (iv) a vertical service; or

1878 (v) a voice mail service.

1879 (13) "Area agency on aging" [~~is as~~] means the same as that term is defined in Section
1880 62A-3-101.

1881 (14) "Assisted amusement device" means an amusement device, skill device, or ride
1882 device that is started and stopped by an individual:

1883 (a) who is not the purchaser or renter of the right to use or operate the amusement
1884 device, skill device, or ride device; and

1885 (b) at the direction of the seller of the right to use the amusement device, skill device,
1886 or ride device.

1887 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
1888 washing of tangible personal property if the cleaning or washing labor is primarily performed
1889 by an individual:

1890 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1891 property; and

1892 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1893 property.

1894 (16) "Authorized carrier" means:

1895 (a) in the case of vehicles operated over public highways, the holder of credentials
1896 indicating that the vehicle is or will be operated pursuant to both the International Registration
1897 Plan and the International Fuel Tax Agreement;

1898 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1899 certificate or air carrier's operating certificate; or

1900 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1901 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
1902 stock in more than one state.

1903 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
1904 following that is used as the primary source of energy to produce fuel or electricity:

1905 (i) material from a plant or tree; or

- 1906 (ii) other organic matter that is available on a renewable basis, including:
- 1907 (A) slash and brush from forests and woodlands;
- 1908 (B) animal waste;
- 1909 (C) waste vegetable oil;
- 1910 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
- 1911 wastewater residuals, or through the conversion of a waste material through a nonincineration,
- 1912 thermal conversion process;
- 1913 (E) aquatic plants; and
- 1914 (F) agricultural products.
- 1915 (b) "Biomass energy" does not include:
- 1916 (i) black liquor; or
- 1917 (ii) treated woods.
- 1918 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1919 property, products, or services if the tangible personal property, products, or services are:
- 1920 (i) distinct and identifiable; and
- 1921 (ii) sold for one nonitemized price.
- 1922 (b) "Bundled transaction" does not include:
- 1923 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 1924 the basis of the selection by the purchaser of the items of tangible personal property included in
- 1925 the transaction;
- 1926 (ii) the sale of real property;
- 1927 (iii) the sale of services to real property;
- 1928 (iv) the retail sale of tangible personal property and a service if:
- 1929 (A) the tangible personal property:
- 1930 (I) is essential to the use of the service; and
- 1931 (II) is provided exclusively in connection with the service; and
- 1932 (B) the service is the true object of the transaction;
- 1933 (v) the retail sale of two services if:

- 1934 (A) one service is provided that is essential to the use or receipt of a second service;
- 1935 (B) the first service is provided exclusively in connection with the second service; and
- 1936 (C) the second service is the true object of the transaction;
- 1937 (vi) a transaction that includes tangible personal property or a product subject to
- 1938 taxation under this chapter and tangible personal property or a product that is not subject to
- 1939 taxation under this chapter if the:
- 1940 (A) seller's purchase price of the tangible personal property or product subject to
- 1941 taxation under this chapter is de minimis; or
- 1942 (B) seller's sales price of the tangible personal property or product subject to taxation
- 1943 under this chapter is de minimis; and
- 1944 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 1945 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 1946 (A) that retail sale includes:
- 1947 (I) food and food ingredients;
- 1948 (II) a drug;
- 1949 (III) durable medical equipment;
- 1950 (IV) mobility enhancing equipment;
- 1951 (V) an over-the-counter drug;
- 1952 (VI) a prosthetic device; or
- 1953 (VII) a medical supply; and
- 1954 (B) subject to Subsection (18)(f):
- 1955 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 1956 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 1957 (II) the seller's sales price of the tangible personal property subject to taxation under
- 1958 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 1959 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 1960 service that is distinct and identifiable does not include:
- 1961 (A) packaging that:

- 1962 (I) accompanies the sale of the tangible personal property, product, or service; and
1963 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
1964 service;
- 1965 (B) tangible personal property, a product, or a service provided free of charge with the
1966 purchase of another item of tangible personal property, a product, or a service; or
- 1967 (C) an item of tangible personal property, a product, or a service included in the
1968 definition of "purchase price."
- 1969 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
1970 product, or a service is provided free of charge with the purchase of another item of tangible
1971 personal property, a product, or a service if the sales price of the purchased item of tangible
1972 personal property, product, or service does not vary depending on the inclusion of the tangible
1973 personal property, product, or service provided free of charge.
- 1974 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
1975 does not include a price that is separately identified by tangible personal property, product, or
1976 service on the following, regardless of whether the following is in paper format or electronic
1977 format:
- 1978 (A) a binding sales document; or
1979 (B) another supporting sales-related document that is available to a purchaser.
- 1980 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
1981 supporting sales-related document that is available to a purchaser includes:
- 1982 (A) a bill of sale;
1983 (B) a contract;
1984 (C) an invoice;
1985 (D) a lease agreement;
1986 (E) a periodic notice of rates and services;
1987 (F) a price list;
1988 (G) a rate card;
1989 (H) a receipt; or

1990 (I) a service agreement.

1991 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
1992 property or a product subject to taxation under this chapter is de minimis if:

1993 (A) the seller's purchase price of the tangible personal property or product is 10% or
1994 less of the seller's total purchase price of the bundled transaction; or

1995 (B) the seller's sales price of the tangible personal property or product is 10% or less of
1996 the seller's total sales price of the bundled transaction.

1997 (ii) For purposes of Subsection (18)(b)(vi), a seller:

1998 (A) shall use the seller's purchase price or the seller's sales price to determine if the
1999 purchase price or sales price of the tangible personal property or product subject to taxation
2000 under this chapter is de minimis; and

2001 (B) may not use a combination of the seller's purchase price and the seller's sales price
2002 to determine if the purchase price or sales price of the tangible personal property or product
2003 subject to taxation under this chapter is de minimis.

2004 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
2005 contract to determine if the sales price of tangible personal property or a product is de minimis.

2006 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
2007 the seller's purchase price and the seller's sales price to determine if tangible personal property
2008 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
2009 price of that retail sale.

2010 (19) "Certified automated system" means software certified by the governing board of
2011 the agreement that:

2012 (a) calculates the agreement sales and use tax imposed within a local taxing
2013 jurisdiction:

2014 (i) on a transaction; and

2015 (ii) in the states that are members of the agreement;

2016 (b) determines the amount of agreement sales and use tax to remit to a state that is a
2017 member of the agreement; and

2018 (c) maintains a record of the transaction described in Subsection (19)(a)(i).
2019 (20) "Certified service provider" means an agent certified:
2020 (a) by the governing board of the agreement; and
2021 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
2022 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
2023 own purchases.

2024 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
2025 suitable for general use.

2026 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2027 commission shall make rules:

2028 (i) listing the items that constitute "clothing"; and
2029 (ii) that are consistent with the list of items that constitute "clothing" under the
2030 agreement.

2031 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

2032 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
2033 fuels that does not constitute industrial use under Subsection (56) or residential use under
2034 Subsection (106).

2035 (24) (a) "Common carrier" means a person engaged in or transacting the business of
2036 transporting passengers, freight, merchandise, or other property for hire within this state.

2037 (b) (i) "Common carrier" does not include a person who, at the time the person is
2038 traveling to or from that person's place of employment, transports a passenger to or from the
2039 passenger's place of employment.

2040 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
2041 Utah Administrative Rulemaking Act, the commission may make rules defining what
2042 constitutes a person's place of employment.

2043 (c) "Common carrier" does not include a person that provides transportation network
2044 services, as defined in Section 13-51-102.

2045 (25) "Component part" includes:

- 2046 (a) poultry, dairy, and other livestock feed, and their components;
- 2047 (b) baling ties and twine used in the baling of hay and straw;
- 2048 (c) fuel used for providing temperature control of orchards and commercial
- 2049 greenhouses doing a majority of their business in wholesale sales, and for providing power for
- 2050 off-highway type farm machinery; and
- 2051 (d) feed, seeds, and seedlings.
- 2052 (26) "Computer" means an electronic device that accepts information:
- 2053 (a) (i) in digital form; or
- 2054 (ii) in a form similar to digital form; and
- 2055 (b) manipulates that information for a result based on a sequence of instructions.
- 2056 (27) "Computer software" means a set of coded instructions designed to cause:
- 2057 (a) a computer to perform a task; or
- 2058 (b) automatic data processing equipment to perform a task.
- 2059 (28) "Computer software maintenance contract" means a contract that obligates a seller
- 2060 of computer software to provide a customer with:
- 2061 (a) future updates or upgrades to computer software;
- 2062 (b) support services with respect to computer software; or
- 2063 (c) a combination of Subsections (28)(a) and (b).
- 2064 (29) (a) "Conference bridging service" means an ancillary service that links two or
- 2065 more participants of an audio conference call or video conference call.
- 2066 (b) "Conference bridging service" may include providing a telephone number as part of
- 2067 the ancillary service described in Subsection (29)(a).
- 2068 (c) "Conference bridging service" does not include a telecommunications service used
- 2069 to reach the ancillary service described in Subsection (29)(a).
- 2070 (30) "Construction materials" means any tangible personal property that will be
- 2071 converted into real property.
- 2072 (31) "Delivered electronically" means delivered to a purchaser by means other than
- 2073 tangible storage media.

2074 (32) (a) "Delivery charge" means a charge:
2075 (i) by a seller of:
2076 (A) tangible personal property;
2077 (B) a product transferred electronically; or
2078 (C) services; and
2079 (ii) for preparation and delivery of the tangible personal property, product transferred
2080 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
2081 purchaser.
2082 (b) "Delivery charge" includes a charge for the following:
2083 (i) transportation;
2084 (ii) shipping;
2085 (iii) postage;
2086 (iv) handling;
2087 (v) crating; or
2088 (vi) packing.
2089 (33) "Detailed telecommunications billing service" means an ancillary service of
2090 separately stating information pertaining to individual calls on a customer's billing statement.
2091 (34) "Dietary supplement" means a product, other than tobacco, that:
2092 (a) is intended to supplement the diet;
2093 (b) contains one or more of the following dietary ingredients:
2094 (i) a vitamin;
2095 (ii) a mineral;
2096 (iii) an herb or other botanical;
2097 (iv) an amino acid;
2098 (v) a dietary substance for use by humans to supplement the diet by increasing the total
2099 dietary intake; or
2100 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
2101 described in Subsections (34)(b)(i) through (v);

- 2102 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 2103 (A) tablet form;
- 2104 (B) capsule form;
- 2105 (C) powder form;
- 2106 (D) softgel form;
- 2107 (E) gelcap form; or
- 2108 (F) liquid form; or
- 2109 (ii) if the product is not intended for ingestion in a form described in Subsections
- 2110 (34)(c)(i)(A) through (F), is not represented:
- 2111 (A) as conventional food; and
- 2112 (B) for use as a sole item of:
- 2113 (I) a meal; or
- 2114 (II) the diet; and
- 2115 (d) is required to be labeled as a dietary supplement:
- 2116 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 2117 (ii) as required by 21 C.F.R. Sec. 101.36.
- 2118 (35) "Digital audio-visual work" means a series of related images which, when shown
- 2119 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 2120 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 2121 musical, spoken, or other sounds.
- 2122 (b) "Digital audio work" includes a ringtone.
- 2123 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 2124 sense as a book.
- 2125 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 2126 mail or other delivery service:
- 2127 (i) to:
- 2128 (A) a mass audience; or
- 2129 (B) addressees on a mailing list provided:

- 2130 (I) by a purchaser of the mailing list; or
- 2131 (II) at the discretion of the purchaser of the mailing list; and
- 2132 (ii) if the cost of the printed material is not billed directly to the recipients.
- 2133 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 2134 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 2135 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 2136 single address.
- 2137 (39) "Directory assistance" means an ancillary service of providing:
- 2138 (a) address information; or
- 2139 (b) telephone number information.
- 2140 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 2141 or supplies that:
- 2142 (i) cannot withstand repeated use; and
- 2143 (ii) are purchased by, for, or on behalf of a person other than:
- 2144 (A) a health care facility as defined in Section [26-21-2](#);
- 2145 (B) a health care provider as defined in Section [78B-3-403](#);
- 2146 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
- 2147 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 2148 (b) "Disposable home medical equipment or supplies" does not include:
- 2149 (i) a drug;
- 2150 (ii) durable medical equipment;
- 2151 (iii) a hearing aid;
- 2152 (iv) a hearing aid accessory;
- 2153 (v) mobility enhancing equipment; or
- 2154 (vi) tangible personal property used to correct impaired vision, including:
- 2155 (A) eyeglasses; or
- 2156 (B) contact lenses.
- 2157 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2158 commission may by rule define what constitutes medical equipment or supplies.

2159 (41) "Drilling equipment manufacturer" means a facility:

2160 (a) located in the state;

2161 (b) with respect to which 51% or more of the manufacturing activities of the facility

2162 consist of manufacturing component parts of drilling equipment;

2163 (c) that uses pressure of 800,000 or more pounds per square inch as part of the

2164 manufacturing process; and

2165 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the

2166 manufacturing process.

2167 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a

2168 compound, substance, or preparation that is:

2169 (i) recognized in:

2170 (A) the official United States Pharmacopoeia;

2171 (B) the official Homeopathic Pharmacopoeia of the United States;

2172 (C) the official National Formulary; or

2173 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);

2174 (ii) intended for use in the:

2175 (A) diagnosis of disease;

2176 (B) cure of disease;

2177 (C) mitigation of disease;

2178 (D) treatment of disease; or

2179 (E) prevention of disease; or

2180 (iii) intended to affect:

2181 (A) the structure of the body; or

2182 (B) any function of the body.

2183 (b) "Drug" does not include:

2184 (i) food and food ingredients;

2185 (ii) a dietary supplement;

- 2186 (iii) an alcoholic beverage; or
- 2187 (iv) a prosthetic device.
- 2188 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 2189 equipment that:
 - 2190 (i) can withstand repeated use;
 - 2191 (ii) is primarily and customarily used to serve a medical purpose;
 - 2192 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 2193 (iv) is not worn in or on the body.
- 2194 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 2195 equipment described in Subsection (43)(a).
- 2196 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 2197 (44) "Electronic" means:
 - 2198 (a) relating to technology; and
 - 2199 (b) having:
 - 2200 (i) electrical capabilities;
 - 2201 (ii) digital capabilities;
 - 2202 (iii) magnetic capabilities;
 - 2203 (iv) wireless capabilities;
 - 2204 (v) optical capabilities;
 - 2205 (vi) electromagnetic capabilities; or
 - 2206 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 2207 (45) "Electronic financial payment service" means an establishment:
 - 2208 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
 - 2209 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
 - 2210 federal Executive Office of the President, Office of Management and Budget; and
 - 2211 (b) that performs electronic financial payment services.
- 2212 (46) "Employee" ~~is as~~ means the same as that term is defined in Section 59-10-401.
- 2213 (47) "Fixed guideway" means a public transit facility that uses and occupies:

- 2214 (a) rail for the use of public transit; or
- 2215 (b) a separate right-of-way for the use of public transit.
- 2216 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 2217 (a) is powered by turbine engines;
- 2218 (b) operates on jet fuel; and
- 2219 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 2220 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 2221 communication between fixed points.
- 2222 (50) (a) "Food and food ingredients" means substances:
- 2223 (i) regardless of whether the substances are in:
- 2224 (A) liquid form;
- 2225 (B) concentrated form;
- 2226 (C) solid form;
- 2227 (D) frozen form;
- 2228 (E) dried form; or
- 2229 (F) dehydrated form; and
- 2230 (ii) that are:
- 2231 (A) sold for:
- 2232 (I) ingestion by humans; or
- 2233 (II) chewing by humans; and
- 2234 (B) consumed for the substance's:
- 2235 (I) taste; or
- 2236 (II) nutritional value.
- 2237 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 2238 (c) "Food and food ingredients" does not include:
- 2239 (i) an alcoholic beverage;
- 2240 (ii) tobacco; or
- 2241 (iii) prepared food.

2242 (51) (a) "Fundraising sales" means sales:
2243 (i) (A) made by a school; or
2244 (B) made by a school student;
2245 (ii) that are for the purpose of raising funds for the school to purchase equipment,
2246 materials, or provide transportation; and
2247 (iii) that are part of an officially sanctioned school activity.
2248 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
2249 means a school activity:
2250 (i) that is conducted in accordance with a formal policy adopted by the school or school
2251 district governing the authorization and supervision of fundraising activities;
2252 (ii) that does not directly or indirectly compensate an individual teacher or other
2253 educational personnel by direct payment, commissions, or payment in kind; and
2254 (iii) the net or gross revenues from which are deposited in a dedicated account
2255 controlled by the school or school district.
2256 (52) "Geothermal energy" means energy contained in heat that continuously flows
2257 outward from the earth that is used as the sole source of energy to produce electricity.
2258 (53) "Governing board of the agreement" means the governing board of the agreement
2259 that is:
2260 (a) authorized to administer the agreement; and
2261 (b) established in accordance with the agreement.
2262 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
2263 (i) the executive branch of the state, including all departments, institutions, boards,
2264 divisions, bureaus, offices, commissions, and committees;
2265 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2266 Office of the Court Administrator, and similar administrative units in the judicial branch;
2267 (iii) the legislative branch of the state, including the House of Representatives, the
2268 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2269 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal

2270 Analyst;

2271 (iv) the National Guard;

2272 (v) an independent entity as defined in Section [63E-1-102](#); or

2273 (vi) a political subdivision as defined in Section [17B-1-102](#).

2274 (b) "Governmental entity" does not include the state systems of public and higher

2275 education, including:

2276 (i) an applied technology college within the Utah College of Applied Technology;

2277 (ii) a school;

2278 (iii) the State Board of Education;

2279 (iv) the State Board of Regents; or

2280 (v) an institution of higher education.

2281 (55) "Hydroelectric energy" means water used as the sole source of energy to produce

2282 electricity.

2283 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or

2284 other fuels:

2285 (a) in mining or extraction of minerals;

2286 (b) in agricultural operations to produce an agricultural product up to the time of

2287 harvest or placing the agricultural product into a storage facility, including:

2288 (i) commercial greenhouses;

2289 (ii) irrigation pumps;

2290 (iii) farm machinery;

2291 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered

2292 under Title 41, Chapter 1a, Part 2, Registration; and

2293 (v) other farming activities;

2294 (c) in manufacturing tangible personal property at an establishment described in SIC

2295 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal

2296 Executive Office of the President, Office of Management and Budget;

2297 (d) by a scrap recycler if:

2298 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2299 one or more of the following items into prepared grades of processed materials for use in new
2300 products:

- 2301 (A) iron;
- 2302 (B) steel;
- 2303 (C) nonferrous metal;
- 2304 (D) paper;
- 2305 (E) glass;
- 2306 (F) plastic;
- 2307 (G) textile; or
- 2308 (H) rubber; and

2309 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
2310 nonrecycled materials; or

2311 (e) in producing a form of energy or steam described in Subsection 54-2-1[(2)](3)(a) by
2312 a cogeneration facility as defined in Section 54-2-1.

2313 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
2314 for installing:

- 2315 (i) tangible personal property; or
- 2316 (ii) a product transferred electronically.
- 2317 (b) "Installation charge" does not include a charge for:
 - 2318 (i) repairs or renovations of:
 - 2319 (A) tangible personal property; or
 - 2320 (B) a product transferred electronically; or
 - 2321 (ii) attaching tangible personal property or a product transferred electronically:
 - 2322 (A) to other tangible personal property; and
 - 2323 (B) as part of a manufacturing or fabrication process.

2324 (58) "Institution of higher education" means an institution of higher education listed in
2325 Section 53B-2-101.

2326 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2327 personal property or a product transferred electronically for:
2328 (i) (A) a fixed term; or
2329 (B) an indeterminate term; and
2330 (ii) consideration.
2331 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2332 amount of consideration may be increased or decreased by reference to the amount realized
2333 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2334 Code.
2335 (c) "Lease" or "rental" does not include:
2336 (i) a transfer of possession or control of property under a security agreement or
2337 deferred payment plan that requires the transfer of title upon completion of the required
2338 payments;
2339 (ii) a transfer of possession or control of property under an agreement that requires the
2340 transfer of title:
2341 (A) upon completion of required payments; and
2342 (B) if the payment of an option price does not exceed the greater of:
2343 (I) \$100; or
2344 (II) 1% of the total required payments; or
2345 (iii) providing tangible personal property along with an operator for a fixed period of
2346 time or an indeterminate period of time if the operator is necessary for equipment to perform as
2347 designed.
2348 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
2349 perform as designed if the operator's duties exceed the:
2350 (i) set-up of tangible personal property;
2351 (ii) maintenance of tangible personal property; or
2352 (iii) inspection of tangible personal property.
2353 (60) "Life science establishment" means an establishment in this state that is classified

2354 under the following NAICS codes of the 2007 North American Industry Classification System
2355 of the federal Executive Office of the President, Office of Management and Budget:

2356 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2357 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2358 Manufacturing; or

2359 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2360 (61) "Life science research and development facility" means a facility owned, leased,
2361 or rented by a life science establishment if research and development is performed in 51% or
2362 more of the total area of the facility.

2363 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
2364 if the tangible storage media is not physically transferred to the purchaser.

2365 (63) "Local taxing jurisdiction" means a:

2366 (a) county that is authorized to impose an agreement sales and use tax;

2367 (b) city that is authorized to impose an agreement sales and use tax; or

2368 (c) town that is authorized to impose an agreement sales and use tax.

2369 (64) "Manufactured home" [~~is~~ as] means the same as that term is defined in Section
2370 15A-1-302.

2371 (65) "Manufacturing facility" means:

2372 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2373 Industrial Classification Manual of the federal Executive Office of the President, Office of
2374 Management and Budget;

2375 (b) a scrap recycler if:

2376 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2377 one or more of the following items into prepared grades of processed materials for use in new
2378 products:

2379 (A) iron;

2380 (B) steel;

2381 (C) nonferrous metal;

2382 (D) paper;
2383 (E) glass;
2384 (F) plastic;
2385 (G) textile; or
2386 (H) rubber; and
2387 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
2388 nonrecycled materials; or
2389 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
2390 placed in service on or after May 1, 2006.
2391 (66) "Member of the immediate family of the producer" means a person who is related
2392 to a producer described in Subsection 59-12-104(20)(a) as a:
2393 (a) child or stepchild, regardless of whether the child or stepchild is:
2394 (i) an adopted child or adopted stepchild; or
2395 (ii) a foster child or foster stepchild;
2396 (b) grandchild or stepgrandchild;
2397 (c) grandparent or stepgrandparent;
2398 (d) nephew or stepnephew;
2399 (e) niece or stepniece;
2400 (f) parent or stepparent;
2401 (g) sibling or stepsibling;
2402 (h) spouse;
2403 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);
2404 or
2405 (j) person similar to a person described in Subsections (66)(a) through (i) as
2406 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2407 Administrative Rulemaking Act.
2408 (67) "Mobile home" [~~is as~~] means the same as that term is defined in Section
2409 15A-1-302.

2410 (68) "Mobile telecommunications service" is as defined in the Mobile
2411 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2412 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of
2413 the technology used, if:

- 2414 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2415 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2416 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
2417 described in Subsection (69)(a)(ii) are not fixed.

2418 (b) "Mobile wireless service" includes a telecommunications service that is provided
2419 by a commercial mobile radio service provider.

2420 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2421 commission may by rule define "commercial mobile radio service provider."

2422 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"
2423 means equipment that is:

- 2424 (i) primarily and customarily used to provide or increase the ability to move from one
2425 place to another;
- 2426 (ii) appropriate for use in a:
 - 2427 (A) home; or
 - 2428 (B) motor vehicle; and
- 2429 (iii) not generally used by persons with normal mobility.

2430 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2431 the equipment described in Subsection (70)(a).

2432 (c) "Mobility enhancing equipment" does not include:

- 2433 (i) a motor vehicle;
- 2434 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
2435 vehicle manufacturer;
- 2436 (iii) durable medical equipment; or
- 2437 (iv) a prosthetic device.

2438 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
2439 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2440 functions for agreement sales and use taxes other than the seller's obligation under Section
2441 [59-12-124](#) to remit a tax on the seller's own purchases.

2442 (72) "Model 2 seller" means a seller registered under the agreement that:

2443 (a) except as provided in Subsection (72)(b), has selected a certified automated system
2444 to perform the seller's sales tax functions for agreement sales and use taxes; and

2445 (b) retains responsibility for remitting all of the sales tax:

2446 (i) collected by the seller; and

2447 (ii) to the appropriate local taxing jurisdiction.

2448 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
2449 the agreement that has:

2450 (i) sales in at least five states that are members of the agreement;

2451 (ii) total annual sales revenues of at least \$500,000,000;

2452 (iii) a proprietary system that calculates the amount of tax:

2453 (A) for an agreement sales and use tax; and

2454 (B) due to each local taxing jurisdiction; and

2455 (iv) entered into a performance agreement with the governing board of the agreement.

2456 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of
2457 sellers using the same proprietary system.

2458 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
2459 model 1 seller, model 2 seller, or model 3 seller.

2460 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

2461 (76) "Motor vehicle" [~~is-as~~] means the same as that term is defined in Section
2462 [41-1a-102](#).

2463 (77) "Oil sands" means impregnated bituminous sands that:

2464 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2465 other hydrocarbons, or otherwise treated;

2466 (b) yield mixtures of liquid hydrocarbon; and
2467 (c) require further processing other than mechanical blending before becoming finished
2468 petroleum products.

2469 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2470 material that yields petroleum upon heating and distillation.

2471 (79) "Optional computer software maintenance contract" means a computer software
2472 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2473 sale of computer software.

2474 (80) (a) "Other fuels" means products that burn independently to produce heat or
2475 energy.

2476 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2477 personal property.

2478 (81) (a) "Paging service" means a telecommunications service that provides
2479 transmission of a coded radio signal for the purpose of activating a specific pager.

2480 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
2481 includes a transmission by message or sound.

2482 (82) "Pawnbroker" ~~is as~~ means the same as that term is defined in Section
2483 13-32a-102.

2484 (83) "Pawn transaction" ~~is as~~ means the same as that term is defined in Section
2485 13-32a-102.

2486 (84) (a) "Permanently attached to real property" means that for tangible personal
2487 property attached to real property:

2488 (i) the attachment of the tangible personal property to the real property:

2489 (A) is essential to the use of the tangible personal property; and

2490 (B) suggests that the tangible personal property will remain attached to the real
2491 property in the same place over the useful life of the tangible personal property; or

2492 (ii) if the tangible personal property is detached from the real property, the detachment
2493 would:

- 2494 (A) cause substantial damage to the tangible personal property; or
- 2495 (B) require substantial alteration or repair of the real property to which the tangible
- 2496 personal property is attached.
- 2497 (b) "Permanently attached to real property" includes:
- 2498 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 2499 (A) essential to the operation of the tangible personal property; and
- 2500 (B) attached only to facilitate the operation of the tangible personal property;
- 2501 (ii) a temporary detachment of tangible personal property from real property for a
- 2502 repair or renovation if the repair or renovation is performed where the tangible personal
- 2503 property and real property are located; or
- 2504 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2505 Subsection (84)(c)(iii) or (iv).
- 2506 (c) "Permanently attached to real property" does not include:
- 2507 (i) the attachment of portable or movable tangible personal property to real property if
- 2508 that portable or movable tangible personal property is attached to real property only for:
- 2509 (A) convenience;
- 2510 (B) stability; or
- 2511 (C) for an obvious temporary purpose;
- 2512 (ii) the detachment of tangible personal property from real property except for the
- 2513 detachment described in Subsection (84)(b)(ii);
- 2514 (iii) an attachment of the following tangible personal property to real property if the
- 2515 attachment to real property is only through a line that supplies water, electricity, gas,
- 2516 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2517 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2518 (A) a computer;
- 2519 (B) a telephone;
- 2520 (C) a television; or
- 2521 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as

2522 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2523 Administrative Rulemaking Act; or

2524 (iv) an item listed in Subsection (125)(c).

2525 (85) "Person" includes any individual, firm, partnership, joint venture, association,
2526 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
2527 municipality, district, or other local governmental entity of the state, or any group or
2528 combination acting as a unit.

2529 (86) "Place of primary use":

2530 (a) for telecommunications service other than mobile telecommunications service,
2531 means the street address representative of where the customer's use of the telecommunications
2532 service primarily occurs, which shall be:

2533 (i) the residential street address of the customer; or

2534 (ii) the primary business street address of the customer; or

2535 (b) for mobile telecommunications service, is as defined in the Mobile
2536 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2537 (87) (a) "Postpaid calling service" means a telecommunications service a person
2538 obtains by making a payment on a call-by-call basis:

2539 (i) through the use of a:

2540 (A) bank card;

2541 (B) credit card;

2542 (C) debit card; or

2543 (D) travel card; or

2544 (ii) by a charge made to a telephone number that is not associated with the origination
2545 or termination of the telecommunications service.

2546 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2547 service, that would be a prepaid wireless calling service if the service were exclusively a
2548 telecommunications service.

2549 (88) "Postproduction" means an activity related to the finishing or duplication of a

2550 medium described in Subsection 59-12-104(54)(a).

2551 (89) "Prepaid calling service" means a telecommunications service:

2552 (a) that allows a purchaser access to telecommunications service that is exclusively
2553 telecommunications service;

2554 (b) that:

2555 (i) is paid for in advance; and

2556 (ii) enables the origination of a call using an:

2557 (A) access number; or

2558 (B) authorization code;

2559 (c) that is dialed:

2560 (i) manually; or

2561 (ii) electronically; and

2562 (d) sold in predetermined units or dollars that decline:

2563 (i) by a known amount; and

2564 (ii) with use.

2565 (90) "Prepaid wireless calling service" means a telecommunications service:

2566 (a) that provides the right to utilize:

2567 (i) mobile wireless service; and

2568 (ii) other service that is not a telecommunications service, including:

2569 (A) the download of a product transferred electronically;

2570 (B) a content service; or

2571 (C) an ancillary service;

2572 (b) that:

2573 (i) is paid for in advance; and

2574 (ii) enables the origination of a call using an:

2575 (A) access number; or

2576 (B) authorization code;

2577 (c) that is dialed:

- 2578 (i) manually; or
- 2579 (ii) electronically; and
- 2580 (d) sold in predetermined units or dollars that decline:
- 2581 (i) by a known amount; and
- 2582 (ii) with use.
- 2583 (91) (a) "Prepared food" means:
- 2584 (i) food:
- 2585 (A) sold in a heated state; or
- 2586 (B) heated by a seller;
- 2587 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2588 item; or
- 2589 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 2590 by the seller, including a:
- 2591 (A) plate;
- 2592 (B) knife;
- 2593 (C) fork;
- 2594 (D) spoon;
- 2595 (E) glass;
- 2596 (F) cup;
- 2597 (G) napkin; or
- 2598 (H) straw.
- 2599 (b) "Prepared food" does not include:
- 2600 (i) food that a seller only:
- 2601 (A) cuts;
- 2602 (B) repackages; or
- 2603 (C) pasteurizes; or
- 2604 (ii) (A) the following:
- 2605 (I) raw egg;

- 2606 (II) raw fish;
- 2607 (III) raw meat;
- 2608 (IV) raw poultry; or
- 2609 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 2610 and
- 2611 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2612 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2613 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 2614 (iii) the following if sold without eating utensils provided by the seller:
- 2615 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2616 classification under the 2002 North American Industry Classification System of the federal
- 2617 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2618 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2619 Manufacturing;
- 2620 (B) food and food ingredients sold in an unheated state:
- 2621 (I) by weight or volume; and
- 2622 (II) as a single item; or
- 2623 (C) a bakery item, including:
- 2624 (I) a bagel;
- 2625 (II) a bar;
- 2626 (III) a biscuit;
- 2627 (IV) bread;
- 2628 (V) a bun;
- 2629 (VI) a cake;
- 2630 (VII) a cookie;
- 2631 (VIII) a croissant;
- 2632 (IX) a danish;
- 2633 (X) a donut;

- 2634 (XI) a muffin;
- 2635 (XII) a pastry;
- 2636 (XIII) a pie;
- 2637 (XIV) a roll;
- 2638 (XV) a tart;
- 2639 (XVI) a torte; or
- 2640 (XVII) a tortilla.
- 2641 (c) An eating utensil provided by the seller does not include the following used to
- 2642 transport the food:
 - 2643 (i) a container; or
 - 2644 (ii) packaging.
- 2645 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 2646 (a) (i) orally;
 - 2647 (ii) in writing;
 - 2648 (iii) electronically; or
 - 2649 (iv) by any other manner of transmission; and
 - 2650 (b) by a licensed practitioner authorized by the laws of a state.
- 2651 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 2652 software" means computer software that is not designed and developed:
 - 2653 (i) by the author or other creator of the computer software; and
 - 2654 (ii) to the specifications of a specific purchaser.
- 2655 (b) "Prewritten computer software" includes:
 - 2656 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
 - 2657 software is not designed and developed:
 - 2658 (A) by the author or other creator of the computer software; and
 - 2659 (B) to the specifications of a specific purchaser;
 - 2660 (ii) computer software designed and developed by the author or other creator of the
 - 2661 computer software to the specifications of a specific purchaser if the computer software is sold

2662 to a person other than the purchaser; or

2663 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
2664 prewritten portion of prewritten computer software:

2665 (A) that is modified or enhanced to any degree; and

2666 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
2667 designed and developed to the specifications of a specific purchaser.

2668 (c) "Prewritten computer software" does not include a modification or enhancement
2669 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

2670 (i) reasonable; and

2671 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
2672 invoice or other statement of price provided to the purchaser at the time of sale or later, as
2673 demonstrated by:

2674 (A) the books and records the seller keeps at the time of the transaction in the regular
2675 course of business, including books and records the seller keeps at the time of the transaction in
2676 the regular course of business for nontax purposes;

2677 (B) a preponderance of the facts and circumstances at the time of the transaction; and

2678 (C) the understanding of all of the parties to the transaction.

2679 (94) (a) "Private communications service" means a telecommunications service:

2680 (i) that entitles a customer to exclusive or priority use of one or more communications
2681 channels between or among termination points; and

2682 (ii) regardless of the manner in which the one or more communications channels are
2683 connected.

2684 (b) "Private communications service" includes the following provided in connection
2685 with the use of one or more communications channels:

2686 (i) an extension line;

2687 (ii) a station;

2688 (iii) switching capacity; or

2689 (iv) another associated service that is provided in connection with the use of one or

2690 more communications channels as defined in Section 59-12-215.

2691 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
2692 means a product transferred electronically that would be subject to a tax under this chapter if
2693 that product was transferred in a manner other than electronically.

2694 (b) "Product transferred electronically" does not include:

2695 (i) an ancillary service;

2696 (ii) computer software; or

2697 (iii) a telecommunications service.

2698 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

2699 (i) artificially replace a missing portion of the body;

2700 (ii) prevent or correct a physical deformity or physical malfunction; or

2701 (iii) support a weak or deformed portion of the body.

2702 (b) "Prosthetic device" includes:

2703 (i) parts used in the repairs or renovation of a prosthetic device;

2704 (ii) replacement parts for a prosthetic device;

2705 (iii) a dental prosthesis; or

2706 (iv) a hearing aid.

2707 (c) "Prosthetic device" does not include:

2708 (i) corrective eyeglasses; or

2709 (ii) contact lenses.

2710 (97) (a) "Protective equipment" means an item:

2711 (i) for human wear; and

2712 (ii) that is:

2713 (A) designed as protection:

2714 (I) to the wearer against injury or disease; or

2715 (II) against damage or injury of other persons or property; and

2716 (B) not suitable for general use.

2717 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

2718 commission shall make rules:

2719 (i) listing the items that constitute "protective equipment"; and

2720 (ii) that are consistent with the list of items that constitute "protective equipment"

2721 under the agreement.

2722 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
2723 printed matter, other than a photocopy:

2724 (i) regardless of:

2725 (A) characteristics;

2726 (B) copyright;

2727 (C) form;

2728 (D) format;

2729 (E) method of reproduction; or

2730 (F) source; and

2731 (ii) made available in printed or electronic format.

2732 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2733 commission may by rule define the term "photocopy."

2734 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:

2735 (i) valued in money; and

2736 (ii) for which tangible personal property, a product transferred electronically, or
2737 services are:

2738 (A) sold;

2739 (B) leased; or

2740 (C) rented.

2741 (b) "Purchase price" and "sales price" include:

2742 (i) the seller's cost of the tangible personal property, a product transferred
2743 electronically, or services sold;

2744 (ii) expenses of the seller, including:

2745 (A) the cost of materials used;

- 2746 (B) a labor cost;
- 2747 (C) a service cost;
- 2748 (D) interest;
- 2749 (E) a loss;
- 2750 (F) the cost of transportation to the seller; or
- 2751 (G) a tax imposed on the seller;
- 2752 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2753 (iv) consideration a seller receives from a person other than the purchaser if:
- 2754 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2755 and
- 2756 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 2757 price reduction or discount on the sale;
- 2758 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2759 purchaser;
- 2760 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2761 the seller at the time of the sale to the purchaser; and
- 2762 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2763 seller to claim a price reduction or discount; and
- 2764 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2765 coupon, or other documentation with the understanding that the person other than the seller
- 2766 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2767 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2768 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2769 available to any patron of a seller does not constitute membership in a group or organization
- 2770 allowed a price reduction or discount; or
- 2771 (III) the price reduction or discount is identified as a third party price reduction or
- 2772 discount on the:
- 2773 (Aa) invoice the purchaser receives; or

- 2774 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 2775 (c) "Purchase price" and "sales price" do not include:
- 2776 (i) a discount:
- 2777 (A) in a form including:
- 2778 (I) cash;
- 2779 (II) term; or
- 2780 (III) coupon;
- 2781 (B) that is allowed by a seller;
- 2782 (C) taken by a purchaser on a sale; and
- 2783 (D) that is not reimbursed by a third party; or
- 2784 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 2785 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 2786 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 2787 transaction in the regular course of business, including books and records the seller keeps at the
- 2788 time of the transaction in the regular course of business for nontax purposes, by a
- 2789 preponderance of the facts and circumstances at the time of the transaction, and by the
- 2790 understanding of all of the parties to the transaction:
- 2791 (A) the following from credit extended on the sale of tangible personal property or
- 2792 services:
- 2793 (I) a carrying charge;
- 2794 (II) a financing charge; or
- 2795 (III) an interest charge;
- 2796 (B) a delivery charge;
- 2797 (C) an installation charge;
- 2798 (D) a manufacturer rebate on a motor vehicle; or
- 2799 (E) a tax or fee legally imposed directly on the consumer.
- 2800 (100) "Purchaser" means a person to whom:
- 2801 (a) a sale of tangible personal property is made;

2802 (b) a product is transferred electronically; or
2803 (c) a service is furnished.

2804 (101) "Qualifying enterprise data center" means an establishment that will:

2805 (a) own and operate a data center facility that will house a group of networked server
2806 computers in one physical location in order to centralize the dissemination, management, and
2807 storage of data and information;

2808 (b) be located in the state;

2809 (c) be a new operation constructed on or after July 1, 2016;

2810 (d) consist of one or more buildings that total 150,000 or more square feet;

2811 (e) be owned or leased by:

2812 (i) the establishment; or

2813 (ii) a person under common ownership, as defined in Section 59-7-101, of the
2814 establishment; and

2815 (f) be located on one or more parcels of land that are owned or leased by:

2816 (i) the establishment; or

2817 (ii) a person under common ownership, as defined in Section 59-7-101, of the
2818 establishment.

2819 (102) "Regularly rented" means:

2820 (a) rented to a guest for value three or more times during a calendar year; or

2821 (b) advertised or held out to the public as a place that is regularly rented to guests for
2822 value.

2823 (103) "Rental" [~~is as~~] means the same as that term is defined in Subsection (59).

2824 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
2825 personal property" means:

2826 (i) a repair or renovation of tangible personal property that is not permanently attached
2827 to real property; or

2828 (ii) attaching tangible personal property or a product transferred electronically to other
2829 tangible personal property or detaching tangible personal property or a product transferred

2830 electronically from other tangible personal property if:

2831 (A) the other tangible personal property to which the tangible personal property or
2832 product transferred electronically is attached or from which the tangible personal property or
2833 product transferred electronically is detached is not permanently attached to real property; and

2834 (B) the attachment of tangible personal property or a product transferred electronically
2835 to other tangible personal property or detachment of tangible personal property or a product
2836 transferred electronically from other tangible personal property is made in conjunction with a
2837 repair or replacement of tangible personal property or a product transferred electronically.

2838 (b) "Repairs or renovations of tangible personal property" does not include:

2839 (i) attaching prewritten computer software to other tangible personal property if the
2840 other tangible personal property to which the prewritten computer software is attached is not
2841 permanently attached to real property; or

2842 (ii) detaching prewritten computer software from other tangible personal property if the
2843 other tangible personal property from which the prewritten computer software is detached is
2844 not permanently attached to real property.

2845 (105) "Research and development" means the process of inquiry or experimentation
2846 aimed at the discovery of facts, devices, technologies, or applications and the process of
2847 preparing those devices, technologies, or applications for marketing.

2848 (106) (a) "Residential telecommunications services" means a telecommunications
2849 service or an ancillary service that is provided to an individual for personal use:

2850 (i) at a residential address; or

2851 (ii) at an institution, including a nursing home or a school, if the telecommunications
2852 service or ancillary service is provided to and paid for by the individual residing at the
2853 institution rather than the institution.

2854 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

2855 (i) apartment; or

2856 (ii) other individual dwelling unit.

2857 (107) "Residential use" means the use in or around a home, apartment building,

2858 sleeping quarters, and similar facilities or accommodations.

2859 ~~[(109)]~~ (108) (a) "Retailer" means any person engaged in a regularly organized
2860 business in tangible personal property or any other taxable transaction under Subsection
2861 59-12-103(1), and who is selling to the user or consumer and not for resale.

2862 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2863 engaged in the business of selling to users or consumers within the state.

2864 ~~[(108)]~~ (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
2865 other than:

2866 (a) resale;

2867 (b) sublease; or

2868 (c) subrent.

2869 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2870 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2871 Subsection 59-12-103(1), for consideration.

2872 (b) "Sale" includes:

2873 (i) installment and credit sales;

2874 (ii) any closed transaction constituting a sale;

2875 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2876 chapter;

2877 (iv) any transaction if the possession of property is transferred but the seller retains the
2878 title as security for the payment of the price; and

2879 (v) any transaction under which right to possession, operation, or use of any article of
2880 tangible personal property is granted under a lease or contract and the transfer of possession
2881 would be taxable if an outright sale were made.

2882 (111) "Sale at retail" ~~[is as]~~ means the same as that term is defined in Subsection
2883 ~~[(108)]~~ (109).

2884 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
2885 personal property or a product transferred electronically that is subject to a tax under this

2886 chapter is transferred:

2887 (a) by a purchaser-lessee;

2888 (b) to a lessor;

2889 (c) for consideration; and

2890 (d) if:

2891 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

2892 of the tangible personal property or product transferred electronically;

2893 (ii) the sale of the tangible personal property or product transferred electronically to the

2894 lessor is intended as a form of financing:

2895 (A) for the tangible personal property or product transferred electronically; and

2896 (B) to the purchaser-lessee; and

2897 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

2898 is required to:

2899 (A) capitalize the tangible personal property or product transferred electronically for

2900 financial reporting purposes; and

2901 (B) account for the lease payments as payments made under a financing arrangement.

2902 (113) "Sales price" ~~is as~~ means the same as that term is defined in Subsection (99).

2903 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

2904 amounts charged by a school:

2905 (i) sales that are directly related to the school's educational functions or activities

2906 including:

2907 (A) the sale of:

2908 (I) textbooks;

2909 (II) textbook fees;

2910 (III) laboratory fees;

2911 (IV) laboratory supplies; or

2912 (V) safety equipment;

2913 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

2914 that:

2915 (I) a student is specifically required to wear as a condition of participation in a
2916 school-related event or school-related activity; and

2917 (II) is not readily adaptable to general or continued usage to the extent that it takes the
2918 place of ordinary clothing;

2919 (C) sales of the following if the net or gross revenues generated by the sales are
2920 deposited into a school district fund or school fund dedicated to school meals:

2921 (I) food and food ingredients; or

2922 (II) prepared food; or

2923 (D) transportation charges for official school activities; or

2924 (ii) amounts paid to or amounts charged by a school for admission to a school-related
2925 event or school-related activity.

2926 (b) "Sales relating to schools" does not include:

2927 (i) bookstore sales of items that are not educational materials or supplies;

2928 (ii) except as provided in Subsection (114)(a)(i)(B):

2929 (A) clothing;

2930 (B) clothing accessories or equipment;

2931 (C) protective equipment; or

2932 (D) sports or recreational equipment; or

2933 (iii) amounts paid to or amounts charged by a school for admission to a school-related
2934 event or school-related activity if the amounts paid or charged are passed through to a person:

2935 (A) other than a:

2936 (I) school;

2937 (II) nonprofit organization authorized by a school board or a governing body of a
2938 private school to organize and direct a competitive secondary school activity; or

2939 (III) nonprofit association authorized by a school board or a governing body of a
2940 private school to organize and direct a competitive secondary school activity; and

2941 (B) that is required to collect sales and use taxes under this chapter.

2942 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2943 commission may make rules defining the term "passed through."

2944 (115) For purposes of this section and Section 59-12-104, "school":

2945 (a) means:

2946 (i) an elementary school or a secondary school that:

2947 (A) is a:

2948 (I) public school; or

2949 (II) private school; and

2950 (B) provides instruction for one or more grades kindergarten through 12; or

2951 (ii) a public school district; and

2952 (b) includes the Electronic High School as defined in Section 53A-15-1002.

2953 (116) "Seller" means a person that makes a sale, lease, or rental of:

2954 (a) tangible personal property;

2955 (b) a product transferred electronically; or

2956 (c) a service.

2957 (117) (a) "Semiconductor fabricating, processing, research, or development materials"
2958 means tangible personal property or a product transferred electronically if the tangible personal
2959 property or product transferred electronically is:

2960 (i) used primarily in the process of:

2961 (A) (I) manufacturing a semiconductor;

2962 (II) fabricating a semiconductor; or

2963 (III) research or development of a:

2964 (Aa) semiconductor; or

2965 (Bb) semiconductor manufacturing process; or

2966 (B) maintaining an environment suitable for a semiconductor; or

2967 (ii) consumed primarily in the process of:

2968 (A) (I) manufacturing a semiconductor;

2969 (II) fabricating a semiconductor; or

- 2970 (III) research or development of a:
- 2971 (Aa) semiconductor; or
- 2972 (Bb) semiconductor manufacturing process; or
- 2973 (B) maintaining an environment suitable for a semiconductor.
- 2974 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2975 includes:
- 2976 (i) parts used in the repairs or renovations of tangible personal property or a product
- 2977 transferred electronically described in Subsection (117)(a); or
- 2978 (ii) a chemical, catalyst, or other material used to:
- 2979 (A) produce or induce in a semiconductor a:
- 2980 (I) chemical change; or
- 2981 (II) physical change;
- 2982 (B) remove impurities from a semiconductor; or
- 2983 (C) improve the marketable condition of a semiconductor.
- 2984 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 2985 services to the aged as defined in Section [62A-3-101](#).
- 2986 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 2987 means tangible personal property that:
- 2988 (i) a business that provides accommodations and services described in Subsection
- 2989 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
- 2990 to a purchaser;
- 2991 (ii) is intended to be consumed by the purchaser; and
- 2992 (iii) is:
- 2993 (A) included in the purchase price of the accommodations and services; and
- 2994 (B) not separately stated on an invoice, bill of sale, or other similar document provided
- 2995 to the purchaser.
- 2996 (b) "Short-term lodging consumable" includes:
- 2997 (i) a beverage;

- 2998 (ii) a brush or comb;
- 2999 (iii) a cosmetic;
- 3000 (iv) a hair care product;
- 3001 (v) lotion;
- 3002 (vi) a magazine;
- 3003 (vii) makeup;
- 3004 (viii) a meal;
- 3005 (ix) mouthwash;
- 3006 (x) nail polish remover;
- 3007 (xi) a newspaper;
- 3008 (xii) a notepad;
- 3009 (xiii) a pen;
- 3010 (xiv) a pencil;
- 3011 (xv) a razor;
- 3012 (xvi) saline solution;
- 3013 (xvii) a sewing kit;
- 3014 (xviii) shaving cream;
- 3015 (xix) a shoe shine kit;
- 3016 (xx) a shower cap;
- 3017 (xxi) a snack item;
- 3018 (xxii) soap;
- 3019 (xxiii) toilet paper;
- 3020 (xxiv) a toothbrush;
- 3021 (xxv) toothpaste; or
- 3022 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
- 3023 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3024 Rulemaking Act.
- 3025 (c) "Short-term lodging consumable" does not include:

3026 (i) tangible personal property that is cleaned or washed to allow the tangible personal
3027 property to be reused; or

3028 (ii) a product transferred electronically.

3029 (120) "Simplified electronic return" means the electronic return:

3030 (a) described in Section 318(C) of the agreement; and

3031 (b) approved by the governing board of the agreement.

3032 (121) "Solar energy" means the sun used as the sole source of energy for producing
3033 electricity.

3034 (122) (a) "Sports or recreational equipment" means an item:

3035 (i) designed for human use; and

3036 (ii) that is:

3037 (A) worn in conjunction with:

3038 (I) an athletic activity; or

3039 (II) a recreational activity; and

3040 (B) not suitable for general use.

3041 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3042 commission shall make rules:

3043 (i) listing the items that constitute "sports or recreational equipment"; and

3044 (ii) that are consistent with the list of items that constitute "sports or recreational
3045 equipment" under the agreement.

3046 (123) "State" means the state of Utah, its departments, and agencies.

3047 (124) "Storage" means any keeping or retention of tangible personal property or any
3048 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except
3049 sale in the regular course of business.

3050 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"
3051 means personal property that:

3052 (i) may be:

3053 (A) seen;

- 3054 (B) weighed;
- 3055 (C) measured;
- 3056 (D) felt; or
- 3057 (E) touched; or
- 3058 (ii) is in any manner perceptible to the senses.
- 3059 (b) "Tangible personal property" includes:
- 3060 (i) electricity;
- 3061 (ii) water;
- 3062 (iii) gas;
- 3063 (iv) steam; or
- 3064 (v) prewritten computer software, regardless of the manner in which the prewritten
- 3065 computer software is transferred.
- 3066 (c) "Tangible personal property" includes the following regardless of whether the item
- 3067 is attached to real property:
- 3068 (i) a dishwasher;
- 3069 (ii) a dryer;
- 3070 (iii) a freezer;
- 3071 (iv) a microwave;
- 3072 (v) a refrigerator;
- 3073 (vi) a stove;
- 3074 (vii) a washer; or
- 3075 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the
- 3076 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 3077 Rulemaking Act.
- 3078 (d) "Tangible personal property" does not include a product that is transferred
- 3079 electronically.
- 3080 (e) "Tangible personal property" does not include the following if attached to real
- 3081 property, regardless of whether the attachment to real property is only through a line that

3082 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
3083 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3084 Rulemaking Act:

- 3085 (i) a hot water heater;
- 3086 (ii) a water filtration system; or
- 3087 (iii) a water softener system.

3088 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
3089 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
3090 primarily to enable or facilitate one or more of the following to function:

- 3091 (i) telecommunications switching or routing equipment, machinery, or software; or
- 3092 (ii) telecommunications transmission equipment, machinery, or software.

3093 (b) The following apply to Subsection (126)(a):

- 3094 (i) a pole;
- 3095 (ii) software;
- 3096 (iii) a supplementary power supply;
- 3097 (iv) temperature or environmental equipment or machinery;
- 3098 (v) test equipment;
- 3099 (vi) a tower; or

3100 (vii) equipment, machinery, or software that functions similarly to an item listed in
3101 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
3102 accordance with Subsection (126)(c).

3103 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3104 commission may by rule define what constitutes equipment, machinery, or software that
3105 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

3106 (127) "Telecommunications equipment, machinery, or software required for 911
3107 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
3108 Sec. 20.18.

3109 (128) "Telecommunications maintenance or repair equipment, machinery, or software"

3110 means equipment, machinery, or software purchased or leased primarily to maintain or repair
3111 one or more of the following, regardless of whether the equipment, machinery, or software is
3112 purchased or leased as a spare part or as an upgrade or modification to one or more of the
3113 following:

- 3114 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 3115 (b) telecommunications switching or routing equipment, machinery, or software; or
- 3116 (c) telecommunications transmission equipment, machinery, or software.

3117 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
3118 transmission of audio, data, video, voice, or any other information or signal to a point, or
3119 among or between points.

3120 (b) "Telecommunications service" includes:

3121 (i) an electronic conveyance, routing, or transmission with respect to which a computer
3122 processing application is used to act:

3123 (A) on the code, form, or protocol of the content;

3124 (B) for the purpose of electronic conveyance, routing, or transmission; and

3125 (C) regardless of whether the service:

3126 (I) is referred to as voice over Internet protocol service; or

3127 (II) is classified by the Federal Communications Commission as enhanced or value
3128 added;

3129 (ii) an 800 service;

3130 (iii) a 900 service;

3131 (iv) a fixed wireless service;

3132 (v) a mobile wireless service;

3133 (vi) a postpaid calling service;

3134 (vii) a prepaid calling service;

3135 (viii) a prepaid wireless calling service; or

3136 (ix) a private communications service.

3137 (c) "Telecommunications service" does not include:

- 3138 (i) advertising, including directory advertising;
- 3139 (ii) an ancillary service;
- 3140 (iii) a billing and collection service provided to a third party;
- 3141 (iv) a data processing and information service if:
 - 3142 (A) the data processing and information service allows data to be:
 - 3143 (I) (Aa) acquired;
 - 3144 (Bb) generated;
 - 3145 (Cc) processed;
 - 3146 (Dd) retrieved; or
 - 3147 (Ee) stored; and
 - 3148 (II) delivered by an electronic transmission to a purchaser; and
- 3149 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 3150 or information;
- 3151 (v) installation or maintenance of the following on a customer's premises:
 - 3152 (A) equipment; or
 - 3153 (B) wiring;
- 3154 (vi) Internet access service;
- 3155 (vii) a paging service;
- 3156 (viii) a product transferred electronically, including:
 - 3157 (A) music;
 - 3158 (B) reading material;
 - 3159 (C) a ring tone;
 - 3160 (D) software; or
 - 3161 (E) video;
- 3162 (ix) a radio and television audio and video programming service:
 - 3163 (A) regardless of the medium; and
 - 3164 (B) including:
 - 3165 (I) furnishing conveyance, routing, or transmission of a television audio and video

3166 programming service by a programming service provider;

3167 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or

3168 (III) audio and video programming services delivered by a commercial mobile radio

3169 service provider as defined in 47 C.F.R. Sec. 20.3;

3170 (x) a value-added nonvoice data service; or

3171 (xi) tangible personal property.

3172 (130) (a) "Telecommunications service provider" means a person that:

3173 (i) owns, controls, operates, or manages a telecommunications service; and

3174 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or

3175 resale to any person of the telecommunications service.

3176 (b) A person described in Subsection (130)(a) is a telecommunications service provider

3177 whether or not the Public Service Commission of Utah regulates:

3178 (i) that person; or

3179 (ii) the telecommunications service that the person owns, controls, operates, or

3180 manages.

3181 (131) (a) "Telecommunications switching or routing equipment, machinery, or

3182 software" means an item listed in Subsection (131)(b) if that item is purchased or leased

3183 primarily for switching or routing:

3184 (i) an ancillary service;

3185 (ii) data communications;

3186 (iii) voice communications; or

3187 (iv) telecommunications service.

3188 (b) The following apply to Subsection (131)(a):

3189 (i) a bridge;

3190 (ii) a computer;

3191 (iii) a cross connect;

3192 (iv) a modem;

3193 (v) a multiplexer;

3194 (vi) plug in circuitry;
3195 (vii) a router;
3196 (viii) software;
3197 (ix) a switch; or
3198 (x) equipment, machinery, or software that functions similarly to an item listed in
3199 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
3200 accordance with Subsection (131)(c).

3201 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3202 commission may by rule define what constitutes equipment, machinery, or software that
3203 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

3204 (132) (a) "Telecommunications transmission equipment, machinery, or software"
3205 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
3206 sending, receiving, or transporting:

- 3207 (i) an ancillary service;
- 3208 (ii) data communications;
- 3209 (iii) voice communications; or
- 3210 (iv) telecommunications service.

3211 (b) The following apply to Subsection (132)(a):

- 3212 (i) an amplifier;
- 3213 (ii) a cable;
- 3214 (iii) a closure;
- 3215 (iv) a conduit;
- 3216 (v) a controller;
- 3217 (vi) a duplexer;
- 3218 (vii) a filter;
- 3219 (viii) an input device;
- 3220 (ix) an input/output device;
- 3221 (x) an insulator;

- 3222 (xi) microwave machinery or equipment;
- 3223 (xii) an oscillator;
- 3224 (xiii) an output device;
- 3225 (xiv) a pedestal;
- 3226 (xv) a power converter;
- 3227 (xvi) a power supply;
- 3228 (xvii) a radio channel;
- 3229 (xviii) a radio receiver;
- 3230 (xix) a radio transmitter;
- 3231 (xx) a repeater;
- 3232 (xxi) software;
- 3233 (xxii) a terminal;
- 3234 (xxiii) a timing unit;
- 3235 (xxiv) a transformer;
- 3236 (xxv) a wire; or
- 3237 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 3238 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
- 3239 accordance with Subsection (132)(c).
- 3240 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 3241 commission may by rule define what constitutes equipment, machinery, or software that
- 3242 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).
- 3243 (133) (a) "Textbook for a higher education course" means a textbook or other printed
- 3244 material that is required for a course:
- 3245 (i) offered by an institution of higher education; and
- 3246 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 3247 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 3248 (134) "Tobacco" means:
- 3249 (a) a cigarette;

- 3250 (b) a cigar;
- 3251 (c) chewing tobacco;
- 3252 (d) pipe tobacco; or
- 3253 (e) any other item that contains tobacco.
- 3254 (135) "Unassisted amusement device" means an amusement device, skill device, or
- 3255 ride device that is started and stopped by the purchaser or renter of the right to use or operate
- 3256 the amusement device, skill device, or ride device.
- 3257 (136) (a) "Use" means the exercise of any right or power over tangible personal
- 3258 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
- 3259 incident to the ownership or the leasing of that tangible personal property, product transferred
- 3260 electronically, or service.
- 3261 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
- 3262 property, a product transferred electronically, or a service in the regular course of business and
- 3263 held for resale.
- 3264 (137) "Value-added nonvoice data service" means a service:
- 3265 (a) that otherwise meets the definition of a telecommunications service except that a
- 3266 computer processing application is used to act primarily for a purpose other than conveyance,
- 3267 routing, or transmission; and
- 3268 (b) with respect to which a computer processing application is used to act on data or
- 3269 information:
- 3270 (i) code;
- 3271 (ii) content;
- 3272 (iii) form; or
- 3273 (iv) protocol.
- 3274 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
- 3275 required to be titled, registered, or titled and registered:
- 3276 (i) an aircraft as defined in Section 72-10-102;
- 3277 (ii) a vehicle as defined in Section 41-1a-102;

- 3278 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 3279 (iv) a vessel as defined in Section 41-1a-102.
- 3280 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 3281 (i) a vehicle described in Subsection (138)(a); or
- 3282 (ii) (A) a locomotive;
- 3283 (B) a freight car;
- 3284 (C) railroad work equipment; or
- 3285 (D) other railroad rolling stock.
- 3286 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
- 3287 exchanging a vehicle as defined in Subsection (138).
- 3288 (140) (a) "Vertical service" means an ancillary service that:
- 3289 (i) is offered in connection with one or more telecommunications services; and
- 3290 (ii) offers an advanced calling feature that allows a customer to:
- 3291 (A) identify a caller; and
- 3292 (B) manage multiple calls and call connections.
- 3293 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
- 3294 conference bridging service.
- 3295 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
- 3296 receive, send, or store a recorded message.
- 3297 (b) "Voice mail service" does not include a vertical service that a customer is required
- 3298 to have in order to utilize a voice mail service.
- 3299 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
- 3300 facility that generates electricity:
- 3301 (i) using as the primary source of energy waste materials that would be placed in a
- 3302 landfill or refuse pit if it were not used to generate electricity, including:
- 3303 (A) tires;
- 3304 (B) waste coal;
- 3305 (C) oil shale; or

3306 (D) municipal solid waste; and
3307 (ii) in amounts greater than actually required for the operation of the facility.
3308 (b) "Waste energy facility" does not include a facility that incinerates:
3309 (i) hospital waste as defined in 40 C.F.R. 60.51c; or
3310 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
3311 (143) "Watercraft" means a vessel as defined in Section 73-18-2.
3312 (144) "Wind energy" means wind used as the sole source of energy to produce
3313 electricity.
3314 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
3315 location by the United States Postal Service.
3316 Section 29. Section **59-12-703** is amended to read:
3317 **59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax --**
3318 **Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date**
3319 **-- Notice requirements.**
3320 (1) (a) Subject to the other provisions of this section, a county legislative body may
3321 submit an opinion question to the residents of that county, by majority vote of all members of
3322 the legislative body, so that each resident of the county, except residents in municipalities that
3323 have already imposed a sales and use tax under Part 14, City or Town Option Funding for
3324 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an
3325 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
3326 .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:
3327 (i) fund cultural facilities, recreational facilities, and zoological facilities, botanical
3328 organizations, cultural organizations, and zoological organizations, and rural radio stations, in
3329 that county; or
3330 (ii) provide funding for a botanical organization, cultural organization, or zoological
3331 organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in
3332 furtherance of the botanical organization's, cultural organization's, or zoological organization's
3333 primary purpose.

3334 (b) The opinion question required by this section shall state:
3335 "Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and
3336 use tax for (list the purposes for which the revenue collected from the sales and use tax shall be
3337 expended)?"

3338 (c) A county legislative body may not impose a tax under this section on:
3339 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3340 are exempt from taxation under Section 59-12-104;
3341 (ii) sales and uses within a municipality that has already imposed a sales and use tax
3342 under Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and
3343 Zoological Organizations or Facilities; and
3344 (iii) except as provided in Subsection (1)(e), amounts paid or charged for food and
3345 food ingredients.

3346 (d) For purposes of this Subsection (1), the location of a transaction shall be
3347 determined in accordance with Sections 59-12-211 through 59-12-215.

3348 (e) A county legislative body imposing a tax under this section shall impose the tax on
3349 amounts paid or charged for food and food ingredients if the food and food ingredients are sold
3350 as part of a bundled transaction attributable to food and food ingredients and tangible personal
3351 property other than food and food ingredients.

3352 (f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
3353 Government Bonding Act.

3354 (2) (a) If the county legislative body determines that a majority of the county's
3355 registered voters voting on the imposition of the tax have voted in favor of the imposition of
3356 the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a
3357 majority vote of all members of the legislative body on the transactions:
3358 (i) described in Subsection (1); and
3359 (ii) within the county, including the cities and towns located in the county, except those
3360 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
3361 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or

3362 Facilities.

3363 (b) A county legislative body may revise county ordinances to reflect statutory changes
3364 to the distribution formula or eligible recipients of revenue generated from a tax imposed under
3365 Subsection (2)(a) without submitting an opinion question to residents of the county.

3366 (3) Subject to Section 59-12-704, revenue collected from a tax imposed under
3367 Subsection (2) shall be expended:

3368 (a) to fund cultural facilities, recreational facilities, and zoological facilities located
3369 within the county or a city or town located in the county, except a city or town that has already
3370 imposed a sales and use tax under Part 14, City or Town Option Funding for Botanical,
3371 Cultural, Recreational, and Zoological Organizations or Facilities;

3372 (b) to fund ongoing operating expenses of:

3373 (i) recreational facilities described in Subsection (3)(a);

3374 (ii) botanical organizations, cultural organizations, and zoological organizations within
3375 the county; and

3376 (iii) rural radio stations within the county; and

3377 (c) as stated in the opinion question described in Subsection (1).

3378 (4) (a) A tax authorized under this part shall be:

3379 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3380 accordance with:

3381 (A) the same procedures used to administer, collect, and enforce the tax under:

3382 (I) Part 1, Tax Collection; or

3383 (II) Part 2, Local Sales and Use Tax Act; and

3384 (B) Chapter 1, General Taxation Policies; and

3385 (ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year
3386 period in accordance with this section.

3387 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

3388 (5) (a) For purposes of this Subsection (5):

3389 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,

3390 County Annexation.

3391 (ii) "Annexing area" means an area that is annexed into a county.

3392 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3393 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

3394 (A) on the first day of a calendar quarter; and

3395 (B) after a 90-day period beginning on the date the commission receives notice meeting
3396 the requirements of Subsection (5)(b)(ii) from the county.

3397 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

3398 (A) that the county will enact or repeal a tax under this part;

3399 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

3400 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3401 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
3402 tax.

3403 (c) (i) If the billing period for a transaction begins before the effective date of the
3404 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3405 the first billing period that begins on or after the effective date of the enactment of the tax.

3406 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3407 period is produced on or after the effective date of the repeal of the tax imposed under this
3408 section.

3409 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3410 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3411 Subsection (5)(b)(i) takes effect:

3412 (A) on the first day of a calendar quarter; and

3413 (B) beginning 60 days after the effective date of the enactment or repeal under
3414 Subsection (5)(b)(i).

3415 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3416 commission may by rule define the term "catalogue sale."

3417 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs

3418 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3419 part for an annexing area, the enactment or repeal shall take effect:

3420 (A) on the first day of a calendar quarter; and

3421 (B) after a 90-day period beginning on the date the commission receives notice meeting
3422 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3423 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3424 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3425 repeal of a tax under this part for the annexing area;

3426 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3427 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3428 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3429 (f) (i) If the billing period for a transaction begins before the effective date of the
3430 enactment of the tax under this section, the enactment of the tax takes effect on the first day of
3431 the first billing period that begins on or after the effective date of the enactment of the tax.

3432 (ii) The repeal of a tax applies to a billing period if the billing statement for the billing
3433 period is [~~rendered~~] produced on or after the effective date of the repeal of the tax imposed
3434 under this section.

3435 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
3436 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
3437 Subsection (5)(e)(i) takes effect:

3438 (A) on the first day of a calendar quarter; and

3439 (B) beginning 60 days after the effective date of the enactment or repeal under
3440 Subsection (5)(e)(i).

3441 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3442 commission may by rule define the term "catalogue sale."

3443 Section 30. Section **62A-2-120** is amended to read:

3444 **62A-2-120. Background check -- Direct access to children or vulnerable adults.**

3445 (1) As used in this section:

- 3446 (a) "Applicant" means:
- 3447 (i) a person described in Section 62A-2-101;
- 3448 (ii) an individual who:
- 3449 (A) is associated with a licensee; and
- 3450 (B) has or will likely have direct access to a child or a vulnerable adult;
- 3451 (iii) an individual who provides respite care to a foster parent or an adoptive parent on
- 3452 more than one occasion;
- 3453 (iv) a department contractor; or
- 3454 (v) a guardian submitting an application on behalf of an individual, other than the child
- 3455 or vulnerable adult who is receiving the service, if the individual is 12 years of age or older
- 3456 and:
- 3457 (A) resides in a home, that is licensed or certified by the office, with the child or
- 3458 vulnerable adult who is receiving services; or
- 3459 (B) is a person or individual described in Subsection (1)(a)(i), (ii), (iii), or (iv).
- 3460 (b) "Application" means a background screening application to the office.
- 3461 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
- 3462 Public Safety, created in Section 53-10-201.
- 3463 (d) "Personal identifying information" means:
- 3464 (i) current name, former names, nicknames, and aliases;
- 3465 (ii) date of birth;
- 3466 (iii) physical address and email address;
- 3467 (iv) telephone number;
- 3468 (v) driver license number or other government-issued identification number;
- 3469 (vi) social security number;
- 3470 (vii) only for applicants who are 18 years of age or older, fingerprints, in a form
- 3471 specified by the office; and
- 3472 (viii) other information specified by the office by rule made in accordance with Title
- 3473 63G, Chapter 3, Utah Administrative Rulemaking Act.

3474 (2) (a) Except as provided in Subsection [~~(14)~~] (13), an applicant shall submit the
3475 following to the office:

3476 (i) personal identifying information;

3477 (ii) a fee established by the office under Section 63J-1-504; and

3478 (iii) a form, specified by the office, for consent for:

3479 (A) an initial background check upon submission of the information described under
3480 Subsection (2)(a);

3481 (B) a background check at the applicant's annual renewal;

3482 (C) a background check when the office determines that reasonable cause exists; and

3483 (D) retention of personal identifying information, including fingerprints, for
3484 monitoring and notification as described in Subsections (3)(d) and (4).

3485 (b) In addition to the requirements described in Subsection (2)(a), if an applicant spent
3486 time outside of the United States and its territories during the five years immediately preceding
3487 the day on which the information described in Subsection (2)(a) is submitted to the office, the
3488 office may require the applicant to submit documentation establishing whether the applicant
3489 was convicted of a crime during the time that the applicant spent outside of the United States or
3490 its territories.

3491 (3) The office:

3492 (a) shall perform the following duties as part of a background check of an applicant:

3493 (i) check state and regional criminal background databases for the applicant's criminal
3494 history by:

3495 (A) submitting personal identifying information to the Bureau for a search; or

3496 (B) using the applicant's personal identifying information to search state and regional
3497 criminal background databases as authorized under Section 53-10-108;

3498 (ii) submit the applicant's personal identifying information and fingerprints to the
3499 Bureau for a criminal history search of applicable national criminal background databases;

3500 (iii) search the Department of Human Services, Division of Child and Family Services'
3501 Licensing Information System described in Section 62A-4a-1006;

3502 (iv) search the Department of Human Services, Division of Aging and Adult Services'
3503 vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;
3504 (v) search the juvenile court records for substantiated findings of severe child abuse or
3505 neglect described in Section 78A-6-323; and
3506 (vi) search the juvenile court arrest, adjudication, and disposition records, as provided
3507 under Section 78A-6-209;
3508 (b) shall conduct a background check of an applicant for an initial background check
3509 upon submission of the information described under Subsection (2)(a);
3510 (c) may conduct all or portions of a background check of an applicant, as provided by
3511 rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative
3512 Rulemaking Act:
3513 (i) for an annual renewal; or
3514 (ii) when the office determines that reasonable cause exists;
3515 (d) may submit an applicant's personal identifying information, including fingerprints,
3516 to the Bureau for checking, retaining, and monitoring of state and national criminal background
3517 databases and for notifying the office of new criminal activity associated with the applicant;
3518 (e) shall track the status of an approved applicant under this section to ensure that an
3519 approved applicant is not required to duplicate the submission of the applicant's fingerprints if
3520 the applicant applies for:
3521 (i) more than one license;
3522 (ii) direct access to a child or a vulnerable adult in more than one human services
3523 program; or
3524 (iii) direct access to a child or a vulnerable adult under a contract with the department;
3525 (f) shall track the status of each license and each individual with direct access to a child
3526 or a vulnerable adult and notify the Bureau when the license has expired or the individual's
3527 direct access to a child or a vulnerable adult has ceased;
3528 (g) shall adopt measures to strictly limit access to personal identifying information
3529 solely to the office employees responsible for processing the applications for background

3530 checks and to protect the security of the personal identifying information the office reviews
3531 under this Subsection (3); and

3532 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
3533 Rulemaking Act, to implement the provisions of this Subsection (3) relating to background
3534 checks.

3535 (4) (a) With the personal identifying information the office submits to the Bureau
3536 under Subsection (3), the Bureau shall check against state and regional criminal background
3537 databases for the applicant's criminal history.

3538 (b) With the personal identifying information and fingerprints the office submits to the
3539 Bureau under Subsection (3), the Bureau shall check against national criminal background
3540 databases for the applicant's criminal history.

3541 (c) Upon direction from the office, and with the personal identifying information and
3542 fingerprints the office submits to the Bureau under Subsection (3)(d), the Bureau shall:

3543 (i) maintain a separate file of the fingerprints for search by future submissions to the
3544 local and regional criminal records databases, including latent prints; and

3545 (ii) monitor state and regional criminal background databases and identify criminal
3546 activity associated with the applicant.

3547 (d) The Bureau is authorized to submit the fingerprints to the Federal Bureau of
3548 Investigation Next Generation Identification System, to be retained in the Federal Bureau of
3549 Investigation Next Generation Identification System for the purpose of:

3550 (i) being searched by future submissions to the national criminal records databases,
3551 including the Federal Bureau of Investigation Next Generation Identification System and latent
3552 prints; and

3553 (ii) monitoring national criminal background databases and identifying criminal
3554 activity associated with the applicant.

3555 (e) The Bureau shall notify and release to the office all information of criminal activity
3556 associated with the applicant.

3557 (f) Upon notice from the office that a license has expired or an individual's direct

3558 access to a child or a vulnerable adult has ceased, the Bureau shall:

3559 (i) discard and destroy any retained fingerprints; and

3560 (ii) notify the Federal Bureau of Investigation when the license has expired or an
3561 individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau
3562 of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of
3563 Investigation Next Generation Identification System.

3564 (5) (a) After conducting the background check described in Subsections (3) and (4), the
3565 office shall deny an application to an applicant who, within 10 years before the day on which
3566 the applicant submits information to the office under Subsection (2) for a background check,
3567 has been convicted of any of the following, regardless of whether the offense is a felony, a
3568 misdemeanor, or an infraction:

3569 (i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to
3570 animals, or bestiality;

3571 (ii) a violation of any pornography law, including sexual exploitation of a minor;

3572 (iii) prostitution;

3573 (iv) an offense included in:

3574 (A) Title 76, Chapter 5, Offenses Against the Person;

3575 (B) Section 76-5b-201, Sexual Exploitation of a Minor; or

3576 (C) Title 76, Chapter 7, Offenses Against the Family;

3577 (v) aggravated arson, as described in Section 76-6-103;

3578 (vi) aggravated burglary, as described in Section 76-6-203;

3579 (vii) aggravated robbery, as described in Section 76-6-302;

3580 (viii) identity fraud crime, as described in Section 76-6-1102; or

3581 (ix) a conviction for a felony or misdemeanor offense committed outside of the state

3582 that, if committed in the state, would constitute a violation of an offense described in

3583 Subsections (5)(a)(i) through (viii).

3584 (b) If the office denies an application to an applicant based on a conviction described in
3585 Subsection (5)(a), the applicant is not entitled to a comprehensive review described in

3586 Subsection (6).

3587 (6) (a) The office shall conduct a comprehensive review of an applicant's background
3588 check if the applicant has:

3589 (i) a conviction for any felony offense, not described in Subsection (5)(a), regardless of
3590 the date of the conviction;

3591 (ii) a conviction for a misdemeanor offense, not described in Subsection (5)(a), and
3592 designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
3593 Rulemaking Act, if the conviction is within five years before the day on which the applicant
3594 submits information to the office under Subsection (2) for a background check;

3595 (iii) a conviction for any offense described in Subsection (5)(a) that occurred more than
3596 10 years before the day on which the applicant submitted information under Subsection (2)(a);

3597 (iv) pleaded no contest to or is currently subject to a plea in abeyance or diversion
3598 agreement for any offense described in Subsection (5)(a);

3599 (v) a listing in the Department of Human Services, Division of Child and Family
3600 Services' Licensing Information System described in Section [62A-4a-1006](#);

3601 (vi) a listing in the Department of Human Services, Division of Aging and Adult
3602 Services' vulnerable adult abuse, neglect, or exploitation database described in Section
3603 [62A-3-311.1](#);

3604 (vii) a record in the juvenile court of a substantiated finding of severe child abuse or
3605 neglect described in Section [78A-6-323](#);

3606 (viii) a record of an adjudication in juvenile court for an act that, if committed by an
3607 adult, would be a felony or misdemeanor, if the applicant is:

3608 (A) under 28 years of age; or

3609 (B) 28 years of age or older and has been convicted of, has pleaded no contest to, or is
3610 currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor
3611 offense described in Subsection (5)(a); or

3612 (ix) a pending charge for an offense described in Subsection (5)(a).

3613 (b) The comprehensive review described in Subsection (6)(a) shall include an

3614 examination of:

3615 (i) the date of the offense or incident;

3616 (ii) the nature and seriousness of the offense or incident;

3617 (iii) the circumstances under which the offense or incident occurred;

3618 (iv) the age of the perpetrator when the offense or incident occurred;

3619 (v) whether the offense or incident was an isolated or repeated incident;

3620 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable

3621 adult, including:

3622 (A) actual or threatened, nonaccidental physical or mental harm;

3623 (B) sexual abuse;

3624 (C) sexual exploitation; or

3625 (D) negligent treatment;

3626 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric

3627 treatment received, or additional academic or vocational schooling completed; and

3628 (viii) any other pertinent information.

3629 (c) At the conclusion of the comprehensive review described in Subsection (6)(a), the

3630 office shall deny an application to an applicant if the office finds that approval would likely

3631 create a risk of harm to a child or a vulnerable adult.

3632 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

3633 office may make rules, consistent with this chapter, to establish procedures for the

3634 comprehensive review described in this Subsection (6).

3635 (7) Subject to Subsection (10), the office shall approve an application to an applicant

3636 who is not denied under Subsection (5), (6), or (13).

3637 (8) (a) The office may conditionally approve an application of an applicant, for a

3638 maximum of 60 days after the day on which the office sends written notice to the applicant

3639 under Subsection (12), without requiring that the applicant be directly supervised, if the office:

3640 (i) is awaiting the results of the criminal history search of national criminal background

3641 databases; and

3642 (ii) would otherwise approve an application of the applicant under Subsection (7).

3643 (b) Upon receiving the results of the criminal history search of national criminal
3644 background databases, the office shall approve or deny the application of the applicant in
3645 accordance with Subsections (5) through (7).

3646 (9) A licensee or department contractor may not permit an individual to have direct
3647 access to a child or a vulnerable adult unless, subject to Subsection (10):

3648 (a) the individual is associated with the licensee or department contractor and:

3649 (i) the individual's application is approved by the office under this section;

3650 (ii) the individual's application is conditionally approved by the office under

3651 Subsection (8); or

3652 (iii) (A) the individual has submitted the background check information described in
3653 Subsection (2) to the office;

3654 (B) the office has not determined whether to approve the applicant's application; and

3655 (C) the individual is directly supervised by an individual who has a current background
3656 screening approval issued by the office under this section and is associated with the licensee or
3657 department contractor;

3658 (b) (i) the individual is associated with the licensee or department contractor;

3659 (ii) the individual has a current background screening approval issued by the office
3660 under this section;

3661 (iii) one of the following circumstances, that the office has not yet reviewed under
3662 Subsection (6), applies to the individual:

3663 (A) the individual was charged with an offense described in Subsection (5)(a);

3664 (B) the individual is listed in the Licensing Information System, described in Section
3665 [62A-4a-1006](#);

3666 (C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation
3667 database, described in Section [62A-3-311.1](#);

3668 (D) the individual has a record in the juvenile court of a substantiated finding of severe
3669 child abuse or neglect, described in Section [78A-6-323](#); or

- 3670 (E) the individual has a record of an adjudication in juvenile court for an act that, if
3671 committed by an adult, would be a felony or a misdemeanor; and
- 3672 (iv) the individual is directly supervised by an individual who:
- 3673 (A) has a current background screening approval issued by the office under this
3674 section; and
- 3675 (B) is associated with the licensee or department contractor;
- 3676 (c) the individual:
- 3677 (i) is not associated with the licensee or department contractor; and
- 3678 (ii) is directly supervised by an individual who:
- 3679 (A) has a current background screening approval issued by the office under this
3680 section; and
- 3681 (B) is associated with the licensee or department contractor;
- 3682 (d) the individual is the parent or guardian of the child, or the guardian of the
3683 vulnerable adult;
- 3684 (e) the individual is approved by the parent or guardian of the child, or the guardian of
3685 the vulnerable adult, to have direct access to the child or the vulnerable adult; or
- 3686 (f) the individual is only permitted to have direct access to a vulnerable adult who
3687 voluntarily invites the individual to visit.
- 3688 (10) An individual may not have direct access to a child or a vulnerable adult if the
3689 individual is prohibited by court order from having that access.
- 3690 (11) Notwithstanding any other provision of this section, an individual for whom the
3691 office denies an application may not have supervised or unsupervised direct access to a child or
3692 vulnerable adult unless the office approves a subsequent application by the individual.
- 3693 (12) (a) Within 30 days after the day on which the office receives the background
3694 check information for an applicant, the office shall give written notice to:
- 3695 (i) the applicant, and the licensee or department contractor, of the office's decision
3696 regarding the background check and findings; and
- 3697 (ii) the applicant of any convictions and potentially disqualifying charges and

3698 adjudications found in the search.

3699 (b) With the notice described in Subsection (12)(a), the office shall also give the
3700 applicant the details of any comprehensive review conducted under Subsection (6).

3701 (c) If the notice under Subsection (12)(a) states that the applicant's application is
3702 denied, the notice shall further advise the applicant that the applicant may, under Subsection
3703 [62A-2-111\(2\)](#), request a hearing in the department's Office of Administrative Hearings, to
3704 challenge the office's decision.

3705 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3706 office shall make rules, consistent with this chapter:

3707 (i) defining procedures for the challenge of its background check decision described in
3708 Subsection (12)(c); and

3709 (ii) expediting the process for renewal of a license under the requirements of this
3710 section and other applicable sections.

3711 (13) This section does not apply to a department contractor, or an applicant for an
3712 initial license, or license renewal, regarding a substance abuse program that provides services
3713 to adults only.

3714 (14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements
3715 of this section, if the background check of an applicant is being conducted for the purpose of
3716 licensing a prospective foster home or approving a prospective adoptive placement of a child in
3717 state custody, the office shall:

3718 (i) check the child abuse and neglect registry in each state where each applicant resided
3719 in the five years immediately preceding the day on which the applicant applied to be a foster
3720 parent or adoptive parent, to determine whether the prospective foster parent or prospective
3721 adoptive parent is listed in the registry as having a substantiated or supported finding of child
3722 abuse or neglect; and

3723 (ii) check the child abuse and neglect registry in each state where each adult living in
3724 the home of the applicant described in Subsection (14)(a)(i) resided in the five years
3725 immediately preceding the day on which the applicant applied to be a foster parent or adoptive

3726 parent, to determine whether the adult is listed in the registry as having a substantiated or
3727 supported finding of child abuse or neglect.

3728 (b) The requirements described in Subsection (14)(a) do not apply to the extent that:

3729 (i) federal law or rule permits otherwise; or

3730 (ii) the requirements would prohibit the Division of Child and Family Services or a
3731 court from placing a child with:

3732 (A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

3733 (B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307,
3734 or 78A-6-307.5, pending completion of the background check described in Subsection (5).

3735 (c) Notwithstanding Subsections (5) through (9), the office shall deny a license or a
3736 license renewal to a prospective foster parent or a prospective adoptive parent if the applicant
3737 has been convicted of:

3738 (i) a felony involving conduct that constitutes any of the following:

3739 (A) child abuse, as described in Section 76-5-109;

3740 (B) commission of domestic violence in the presence of a child, as described in Section
3741 76-5-109.1;

3742 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

3743 (D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

3744 (E) aggravated murder, as described in Section 76-5-202;

3745 (F) murder, as described in Section 76-5-203;

3746 (G) manslaughter, as described in Section 76-5-205;

3747 (H) child abuse homicide, as described in Section 76-5-208;

3748 (I) homicide by assault, as described in Section 76-5-209;

3749 (J) kidnapping, as described in Section 76-5-301;

3750 (K) child kidnapping, as described in Section 76-5-301.1;

3751 (L) aggravated kidnapping, as described in Section 76-5-302;

3752 (M) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

3753 (N) sexual exploitation of a minor, as described in Section 76-5b-201;

- 3754 (O) aggravated arson, as described in Section 76-6-103;
- 3755 (P) aggravated burglary, as described in Section 76-6-203;
- 3756 (Q) aggravated robbery, as described in Section 76-6-302; or
- 3757 (R) domestic violence, as described in Section 77-36-1; or
- 3758 (ii) an offense committed outside the state that, if committed in the state, would
- 3759 constitute a violation of an offense described in Subsection (14)(c)(i).
- 3760 (d) Notwithstanding Subsections (5) through (9), the office shall deny a license or
- 3761 license renewal to a prospective foster parent or a prospective adoptive parent if, within the
- 3762 five years immediately preceding the day on which the individual's application or license would
- 3763 otherwise be approved, the applicant was convicted of a felony involving conduct that
- 3764 constitutes a violation of any of the following:
- 3765 (i) aggravated assault, as described in Section 76-5-103;
- 3766 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 3767 (iii) mayhem, as described in Section 76-5-105;
- 3768 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 3769 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 3770 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
- 3771 Act;
- 3772 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 3773 Precursor Act; or
- 3774 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 3775 (e) In addition to the circumstances described in Subsection (6)(a), the office shall
- 3776 conduct the comprehensive review of an applicant's background check pursuant to this section
- 3777 if the registry check described in Subsection (14)(a) indicates that the individual is listed in a
- 3778 child abuse and neglect registry of another state as having a substantiated or supported finding
- 3779 of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.
- 3780 Section 31. Section 62A-4a-208 is amended to read:
- 3781 **62A-4a-208. Child protection ombudsman -- Responsibility -- Authority.**

3782 (1) As used in this section:

3783 (a) "Complainant" means a person who initiates a complaint with the ombudsman.

3784 (b) "Ombudsman" means the child protection ombudsman appointed pursuant to this
3785 section.

3786 (2) (a) There is created within the department the position of child protection
3787 ombudsman. The ombudsman shall be appointed by and serve at the pleasure of the executive
3788 director.

3789 (b) The ombudsman shall be:

3790 (i) an individual of recognized executive and administrative capacity;

3791 (ii) selected solely with regard to qualifications and fitness to discharge the duties of
3792 ombudsman; and

3793 (iii) have experience in child welfare, and in state laws and policies governing abused,
3794 neglected, and dependent children.

3795 (c) The ombudsman shall devote full time to the duties of office.

3796 (3) (a) Except as provided in Subsection (3)(b), the ombudsman shall, upon receipt of a
3797 complaint from any person, investigate whether an act or omission of the division with respect
3798 to a particular child:

3799 (i) is contrary to statute, rule, or policy;

3800 (ii) places a child's health or safety at risk;

3801 (iii) is made without an adequate statement of reason; or

3802 (iv) is based on irrelevant, immaterial, or erroneous grounds.

3803 (b) The ombudsman may decline to investigate any complaint. If the ombudsman
3804 declines to investigate a complaint or continue an investigation, the ombudsman shall notify
3805 the complainant and the division of the decision and of the reasons for that decision.

3806 (c) The ombudsman may conduct an investigation on the ombudsman's own initiative.

3807 (4) The ombudsman shall:

3808 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3809 make rules that govern the following:

- 3810 (i) receiving and processing complaints;
- 3811 (ii) notifying complainants and the division regarding a decision to investigate or to
- 3812 decline to investigate a complaint;
- 3813 (iii) prioritizing workload;
- 3814 (iv) maximum time within which investigations shall be completed;
- 3815 (v) conducting investigations;
- 3816 (vi) notifying complainants and the division regarding the results of investigations; and
- 3817 (vii) making recommendations based on the findings and results of recommendations;
- 3818 (b) report findings and recommendations in writing to the complainant and the
- 3819 division, in accordance with the provisions of this section;
- 3820 (c) within appropriations from the Legislature, employ staff as may be necessary to
- 3821 carry out the ombudsman's duties under this part;
- 3822 (d) provide information regarding the role, duties, and functions of the ombudsman to
- 3823 public agencies, private entities, and individuals;
- 3824 (e) annually report to the:
 - 3825 (i) Child Welfare Legislative Oversight Panel;
 - 3826 (ii) governor;
 - 3827 (iii) Division of Child and Family Services;
 - 3828 (iv) executive director of the department; and
 - 3829 (v) director of the division; and
- 3830 (f) as appropriate, make recommendations to the division regarding individual cases,
- 3831 and the rules, policies, and operations of the division.
- 3832 (5) (a) Upon rendering a decision to investigate a complaint, the ombudsman shall
- 3833 notify the complainant and the division of that decision.
- 3834 (b) The ombudsman may advise a complainant to pursue all administrative remedies or
- 3835 channels of complaint before pursuing a complaint with the ombudsman. Subsequent to
- 3836 processing a complaint, the ombudsman may conduct further investigations upon the request of
- 3837 the complainant or upon the ombudsman's own initiative. Nothing in this subsection precludes

3838 a complainant from making a complaint directly to the ombudsman before pursuing an
3839 administrative remedy.

3840 (c) If the ombudsman finds that an individual's act or omission violates state or federal
3841 criminal law, the ombudsman shall immediately report that finding to the appropriate county or
3842 district attorney or to the attorney general.

3843 (d) The ombudsman shall immediately notify the division if the ombudsman finds that
3844 a child needs protective custody, as that term is defined in Section [~~78A-6-105~~] [78A-6-301](#).

3845 (e) The ombudsman shall immediately comply with Part 4, Child Abuse or Neglect
3846 Reporting Requirements.

3847 (6) (a) All records of the ombudsman regarding individual cases shall be classified in
3848 accordance with federal law and the provisions of Title 63G, Chapter 2, Government Records
3849 Access and Management Act. The ombudsman may make public a report prepared pursuant to
3850 this section in accordance with the provisions of Title 63G, Chapter 2, Government Records
3851 Access and Management Act.

3852 (b) The ombudsman shall have access to all of the department's written and electronic
3853 records and databases, including those regarding individual cases. In accordance with Title
3854 63G, Chapter 2, Government Records Access and Management Act, all documents and
3855 information received by the ombudsman shall maintain the same classification that was
3856 designated by the department.

3857 (7) (a) The ombudsman shall prepare a written report of the findings and
3858 recommendations, if any, of each investigation.

3859 (b) The ombudsman shall make recommendations to the division if the ombudsman
3860 finds that:

- 3861 (i) a matter should be further considered by the division;
- 3862 (ii) an administrative act should be addressed, modified, or canceled;
- 3863 (iii) action should be taken by the division with regard to one of its employees; or
- 3864 (iv) any other action should be taken by the division.

3865 Section 32. Section **62A-4a-209** is amended to read:

3866 **62A-4a-209. Emergency placement.**

3867 (1) As used in this section:

3868 (a) "Friend" means the same as that term is defined in Subsection 78A-6-307(1)(a).

3869 (b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.

3870 (c) "Relative" means the same as that term is defined in Subsection 78A-6-307(1)(c).

3871 (2) The division may use an emergency placement under Subsection

3872 62A-4a-202.1(4)(b)(ii) when:

3873 (a) the case worker has made the determination that:

3874 (i) the child's home is unsafe;

3875 (ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

3876 (iii) the child's custodial parent or guardian will agree to not remove the child from the
3877 home of the person that serves as the placement and not have any contact with the child until
3878 after the shelter hearing required by Section 78A-6-306;

3879 (b) a person, with preference being given in accordance with Subsection (4), can be
3880 identified who has the ability and is willing to provide care for the child who would otherwise
3881 be placed in shelter care, including:

3882 (i) taking the child to medical, mental health, dental, and educational appointments at
3883 the request of the division; and

3884 (ii) making the child available to division services and the guardian ad litem; and

3885 (c) the person described in Subsection (2)(b) agrees to care for the child on an
3886 emergency basis under the following conditions:

3887 (i) the person meets the criteria for an emergency placement under Subsection (3);

3888 (ii) the person agrees to not allow the custodial parent or guardian to have any contact
3889 with the child until after the shelter hearing unless authorized by the division in writing;

3890 (iii) the person agrees to contact law enforcement and the division if the custodial
3891 parent or guardian attempts to make unauthorized contact with the child;

3892 (iv) the person agrees to allow the division and the child's guardian ad litem to have
3893 access to the child;

3894 (v) the person has been informed and understands that the division may continue to
3895 search for other possible placements for long-term care, if needed;

3896 (vi) the person is willing to assist the custodial parent or guardian in reunification
3897 efforts at the request of the division, and to follow all court orders; and

3898 (vii) the child is comfortable with the person.

3899 (3) Except as otherwise provided in Subsection (5), before the division places a child
3900 in an emergency placement, the division:

3901 (a) may request the name of a reference and may contact the reference to determine the
3902 answer to the following questions:

3903 (i) would the person identified as a reference place a child in the home of the
3904 emergency placement; and

3905 (ii) are there any other relatives or friends to consider as a possible emergency or
3906 long-term placement for the child;

3907 (b) shall have the custodial parent or guardian sign an emergency placement agreement
3908 form during the investigation;

3909 (c) (i) if the emergency placement will be with a relative of the child, shall comply with
3910 the background check provisions described in Subsection (7); or

3911 (ii) if the emergency placement will be with a person other than a noncustodial parent
3912 or a relative, shall comply with the background check provisions described in Subsection (8)
3913 for adults living in the household where the child will be placed;

3914 (d) shall complete a limited home inspection of the home where the emergency
3915 placement is made; and

3916 (e) shall have the emergency placement approved by a family service specialist.

3917 (4) (a) The following order of preference shall be applied when determining the person
3918 with whom a child will be placed in an emergency placement described in this section,
3919 provided that the person is willing, and has the ability, to care for the child:

3920 (i) a noncustodial parent of the child in accordance with Section [78A-6-307](#);

3921 (ii) a relative of the child;

3922 (iii) subject to Subsection (4)(b), a friend designated by the custodial parent or
3923 guardian of the child; and

3924 (iv) a shelter facility, former foster placement, or other foster placement designated by
3925 the division.

3926 (b) Unless the division agrees otherwise, the custodial parent or guardian described in
3927 Subsection (4)(a)(iii) may designate up to two friends as a potential emergency placement.

3928 (5) (a) The division may, pending the outcome of the investigation described in
3929 Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial
3930 parent if, based on a limited investigation, prior to making the emergency placement, the
3931 division:

3932 (i) determines that the noncustodial parent has regular, unsupervised visitation with the
3933 child that is not prohibited by law or court order;

3934 (ii) determines that there is not reason to believe that the child's health or safety will be
3935 endangered during the emergency placement; and

3936 (iii) has the custodial parent or guardian sign an emergency placement agreement.

3937 (b) Either before or after making an emergency placement with the noncustodial parent
3938 of the child, the division may conduct the investigation described in Subsection (3)(a) in
3939 relation to the noncustodial parent.

3940 (c) Before, or within one day, excluding weekends and holidays, after a child is placed
3941 in an emergency placement with the noncustodial parent of the child, the division shall conduct
3942 a limited:

3943 (i) background check of the noncustodial parent, pursuant to Subsection (7); and

3944 (ii) inspection of the home where the emergency placement is made.

3945 (6) After an emergency placement, the division caseworker must:

3946 (a) respond to the emergency placement's calls within one hour if the custodial parents
3947 or guardians attempt to make unauthorized contact with the child or attempt to remove the
3948 child;

3949 (b) complete all removal paperwork, including the notice provided to the custodial

3950 parents and guardians under Section [78A-6-306](#);

3951 (c) contact the attorney general to schedule a shelter hearing;

3952 (d) complete the placement procedures required in Section [78A-6-307](#); and

3953 (e) continue to search for other relatives as a possible long-term placement, if needed.

3954 (7) (a) The background check described in Subsection (3)(c)(i) shall include

3955 completion of:

3956 (i) a name-based, Utah Bureau of Criminal Identification background check; and

3957 (ii) a search of the Management Information System described in Section

3958 [62A-4a-1003](#).

3959 (b) The division shall determine whether a person passes the background check

3960 described in this Subsection (7) pursuant to the provisions of Subsection [62A-2-120](#)~~[(13)]~~(14).

3961 (c) Notwithstanding Subsection (7)(b), the division may not place a child with an

3962 individual who is prohibited by court order from having access to that child.

3963 (8) (a) The background check described in Subsection (3)(c)(ii) shall include

3964 completion of:

3965 (i) a name-based, Utah Bureau of Criminal Identification background check;

3966 (ii) a federal name-based criminal background check; and

3967 (iii) a search of the Management Information System described in Section

3968 [62A-4a-1003](#).

3969 (b) The division shall determine whether a person passes the background checks

3970 described in this Subsection (8) pursuant to the provisions of Subsection [62A-2-120](#).

3971 (c) If the division denies placement of a child as a result of a name-based criminal

3972 background check described in Subsection (8)(a), and the person contests that denial, the

3973 person shall submit a complete set of fingerprints with written permission to the Utah Bureau

3974 of Criminal Identification for submission to the Federal Bureau of Investigation for a

3975 fingerprint-based criminal background check.

3976 (d) (i) Within 15 calendar days of the name-based background checks, the division

3977 shall require a person to provide a complete set of fingerprints with written permission to the

3978 Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation
3979 for a fingerprint-based criminal background check.

3980 (ii) If a person fails to provide the fingerprints and written permission described in
3981 Subsection (8)(d)(i), the child shall immediately be removed from the home.

3982 Section 33. Section **62A-5-103.5** is amended to read:

3983 **62A-5-103.5. Disbursal of public funds -- Background check of a direct service**
3984 **worker.**

3985 (1) For purposes of this section, "office" means the same as that term is defined in
3986 Section [62A-2-101](#).

3987 (2) Public funds may not be disbursed to pay a direct service worker for personal
3988 services rendered to a person unless the office approves the direct service worker to have direct
3989 access and provide services to a child or a vulnerable adult pursuant to Section [62A-2-120](#).

3990 (3) For purposes of Subsection (2), the office shall conduct a background check of a
3991 direct service worker:

3992 (a) before public funds are disbursed to pay the direct service worker for the personal
3993 services described in Subsection (2); and

3994 (b) using the same procedures established for a background check of an applicant for a
3995 license under Section [62A-2-120](#).

3996 (4) A child who is in the legal custody of the department or any of the department's
3997 divisions may not be placed with a direct service worker unless, before the child is placed with
3998 the direct service worker, the direct service worker passes a background check, pursuant to the
3999 requirements of Subsection [62A-2-120](#)~~(13)~~(14).

4000 (5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
4001 Transit District Act, contracts with the division to provide services:

4002 (a) the provisions of this section are not applicable to a direct service worker employed
4003 by the public transit district; and

4004 (b) the division may not reimburse the public transit district for services provided
4005 unless a direct service worker hired or transferred internally after July 1, 2013, by the public

4006 transit district to drive a paratransit route:

4007 (i) is approved by the office to have direct access to children and vulnerable adults in
4008 accordance with Section 62A-2-120; and

4009 (ii) is subject to a background check established in a statute or rule governing a public
4010 transit district or other public transit district policy.

4011 Section 34. Section 62A-15-703 is amended to read:

4012 **62A-15-703. Residential and inpatient settings -- Commitment proceeding --**
4013 **Child in physical custody of local mental health authority.**

4014 (1) A child may receive services from a local mental health authority in an inpatient or
4015 residential setting only after a commitment proceeding, for the purpose of transferring physical
4016 custody, has been conducted in accordance with the requirements of this section.

4017 (2) That commitment proceeding shall be initiated by a petition for commitment, and
4018 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant
4019 to the procedures and requirements of this section. If the findings described in Subsection (4)
4020 exist, the proceeding shall result in the transfer of physical custody to the appropriate local
4021 mental health authority, and the child may be placed in an inpatient or residential setting.

4022 (3) The neutral and detached fact finder who conducts the inquiry:

4023 (a) shall be a designated examiner, as defined in Subsection 62A-15-602(3); and

4024 (b) may not profit, financially or otherwise, from the commitment or physical
4025 placement of the child in that setting.

4026 (4) Upon determination by the fact finder that the following circumstances clearly
4027 exist, he may order that the child be committed to the physical custody of a local mental health
4028 authority:

4029 (a) the child has a mental illness, as defined in Subsection 62A-15-602[(8)](11);

4030 (b) the child demonstrates a risk of harm to himself or others;

4031 (c) the child is experiencing significant impairment in his ability to perform socially;

4032 (d) the child will benefit from care and treatment by the local mental health authority;

4033 and

4034 (e) there is no appropriate less-restrictive alternative.

4035 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be
4036 conducted in as informal manner as possible, and in a physical setting that is not likely to have
4037 a harmful effect on the child.

4038 (b) The child, the child's parent or legal guardian, the person who submitted the
4039 petition for commitment, and a representative of the appropriate local mental health authority
4040 shall all receive informal notice of the date and time of the proceeding. Those parties shall also
4041 be afforded an opportunity to appear and to address the petition for commitment.

4042 (c) The neutral and detached fact finder may, in his discretion, receive the testimony of
4043 any other person.

4044 (d) The fact finder may allow the child to waive his right to be present at the
4045 commitment proceeding, for good cause shown. If that right is waived, the purpose of the
4046 waiver shall be made a matter of record at the proceeding.

4047 (e) At the time of the commitment proceeding, the appropriate local mental health
4048 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the
4049 commitment proceeding, shall provide the neutral and detached fact finder with the following
4050 information, as it relates to the period of current admission:

4051 (i) the petition for commitment;

4052 (ii) the admission notes;

4053 (iii) the child's diagnosis;

4054 (iv) physicians' orders;

4055 (v) progress notes;

4056 (vi) nursing notes; and

4057 (vii) medication records.

4058 (f) The information described in Subsection (5)(e) shall also be provided to the child's
4059 parent or legal guardian upon written request.

4060 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
4061 duration of the commitment. Any commitment to the physical custody of a local mental health

4062 authority may not exceed 180 days. Prior to expiration of the commitment, and if further
4063 commitment is sought, a hearing shall be conducted in the same manner as the initial
4064 commitment proceeding, in accordance with the requirements of this section.

4065 (ii) When a decision for commitment is made, the neutral and detached fact finder shall
4066 inform the child and his parent or legal guardian of that decision, and of the reasons for
4067 ordering commitment at the conclusion of the hearing, and also in writing.

4068 (iii) The neutral and detached fact finder shall state in writing the basis of his decision,
4069 with specific reference to each of the criteria described in Subsection (4), as a matter of record.

4070 (6) Absent the procedures and findings required by this section, a child may be
4071 temporarily committed to the physical custody of a local mental health authority only in
4072 accordance with the emergency procedures described in Subsection [62A-15-629\(1\)](#) or (2). A
4073 child temporarily committed in accordance with those emergency procedures may be held for a
4074 maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of
4075 that time period, the child shall be released unless the procedures and findings required by this
4076 section have been satisfied.

4077 (7) A local mental health authority shall have physical custody of each child committed
4078 to it under this section. The parent or legal guardian of a child committed to the physical
4079 custody of a local mental health authority under this section, retains legal custody of the child,
4080 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases
4081 when the Division of Child and Family Services or the Division of Juvenile Justice Services
4082 has legal custody of a child, that division shall retain legal custody for purposes of this part.

4083 (8) The cost of caring for and maintaining a child in the physical custody of a local
4084 mental health authority shall be assessed to and paid by the child's parents, according to their
4085 ability to pay. For purposes of this section, the Division of Child and Family Services or the
4086 Division of Juvenile Justice Services shall be financially responsible, in addition to the child's
4087 parents, if the child is in the legal custody of either of those divisions at the time the child is
4088 committed to the physical custody of a local mental health authority under this section, unless
4089 Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services

4090 shall assist those divisions in collecting the costs assessed pursuant to this section.

4091 (9) Whenever application is made for commitment of a minor to a local mental health
4092 authority under any provision of this section by a person other than the child's parent or
4093 guardian, the local mental health authority or its designee shall notify the child's parent or
4094 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled
4095 proceeding.

4096 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30
4097 days after any order for commitment. The appeal may be brought on the child's own petition,
4098 or that of his parent or legal guardian, to the juvenile court in the district where the child
4099 resides or is currently physically located. With regard to a child in the custody of the Division
4100 of Child and Family Services or the Division of Juvenile Justice Services, the attorney general's
4101 office shall handle the appeal, otherwise the appropriate county attorney's office is responsible
4102 for appeals brought pursuant to this Subsection (10)(a).

4103 (b) Upon receipt of the petition for appeal, the court shall appoint a designated
4104 examiner previously unrelated to the case, to conduct an examination of the child in accordance
4105 with the criteria described in Subsection (4), and file a written report with the court. The court
4106 shall then conduct an appeal hearing to determine whether the findings described in Subsection
4107 (4) exist by clear and convincing evidence.

4108 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,
4109 its designee, or the mental health professional who has been in charge of the child's care prior
4110 to commitment, shall provide the court and the designated examiner for the appeal hearing with
4111 the following information, as it relates to the period of current admission:

- 4112 (i) the original petition for commitment;
- 4113 (ii) admission notes;
- 4114 (iii) diagnosis;
- 4115 (iv) physicians' orders;
- 4116 (v) progress notes;
- 4117 (vi) nursing notes; and

4118 (vii) medication records.

4119 (d) Both the neutral and detached fact finder and the designated examiner appointed for
4120 the appeal hearing shall be provided with an opportunity to review the most current
4121 information described in Subsection (10)(c) prior to the appeal hearing.

4122 (e) The child, his parent or legal guardian, the person who submitted the original
4123 petition for commitment, and a representative of the appropriate local mental health authority
4124 shall be notified by the court of the date and time of the appeal hearing. Those persons shall be
4125 afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review
4126 the record and findings of the neutral and detached fact finder, the report of the designated
4127 examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require
4128 the testimony of the neutral and detached fact finder, the designated examiner, the child, the
4129 child's parent or legal guardian, the person who brought the initial petition for commitment, or
4130 any other person whose testimony the court deems relevant. The court may allow the child to
4131 waive his right to appear at the appeal hearing, for good cause shown. If that waiver is granted,
4132 the purpose shall be made a part of the court's record.

4133 (11) Each local mental health authority has an affirmative duty to conduct periodic
4134 evaluations of the mental health and treatment progress of every child committed to its physical
4135 custody under this section, and to release any child who has sufficiently improved so that the
4136 criteria justifying commitment no longer exist.

4137 (12) (a) A local mental health authority or its designee, in conjunction with the child's
4138 current treating mental health professional may release an improved child to a less restrictive
4139 environment, as they determine appropriate. Whenever the local mental health authority or its
4140 designee, and the child's current treating mental health professional, determine that the
4141 conditions justifying commitment no longer exist, the child shall be discharged and released to
4142 his parent or legal guardian. With regard to a child who is in the physical custody of the State
4143 Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's
4144 current treating mental health professional.

4145 (b) A local mental health authority or its designee, in conjunction with the child's

4146 current treating mental health professional, is authorized to issue a written order for the
4147 immediate placement of a child not previously released from an order of commitment into a
4148 more restrictive environment, if the local authority or its designee and the child's current
4149 treating mental health professional has reason to believe that the less restrictive environment in
4150 which the child has been placed is exacerbating his mental illness, or increasing the risk of
4151 harm to himself or others.

4152 (c) The written order described in Subsection (12)(b) shall include the reasons for
4153 placement in a more restrictive environment and shall authorize any peace officer to take the
4154 child into physical custody and transport him to a facility designated by the appropriate local
4155 mental health authority in conjunction with the child's current treating mental health
4156 professional. Prior to admission to the more restrictive environment, copies of the order shall
4157 be personally delivered to the child, his parent or legal guardian, the administrator of the more
4158 restrictive environment, or his designee, and the child's former treatment provider or facility.

4159 (d) If the child has been in a less restrictive environment for more than 30 days and is
4160 aggrieved by the change to a more restrictive environment, the child or his representative may
4161 request a review within 30 days of the change, by a neutral and detached fact finder as
4162 described in Subsection (3). The fact finder shall determine whether:

4163 (i) the less restrictive environment in which the child has been placed is exacerbating
4164 his mental illness, or increasing the risk of harm to himself or others; or

4165 (ii) the less restrictive environment in which the child has been placed is not
4166 exacerbating his mental illness, or increasing the risk of harm to himself or others, in which
4167 case the fact finder shall designate that the child remain in the less restrictive environment.

4168 (e) Nothing in this section prevents a local mental health authority or its designee, in
4169 conjunction with the child's current mental health professional, from discharging a child from
4170 commitment or from placing a child in an environment that is less restrictive than that
4171 designated by the neutral and detached fact finder.

4172 (13) Each local mental health authority or its designee, in conjunction with the child's
4173 current treating mental health professional shall discharge any child who, in the opinion of that

4174 local authority, or its designee, and the child's current treating mental health professional, no
4175 longer meets the criteria specified in Subsection (4), except as provided by Section 78A-6-120.
4176 The local authority and the mental health professional shall assure that any further supportive
4177 services required to meet the child's needs upon release will be provided.

4178 (14) Even though a child has been committed to the physical custody of a local mental
4179 health authority pursuant to this section, the child is still entitled to additional due process
4180 proceedings, in accordance with Section 62A-15-704, before any treatment which may affect a
4181 constitutionally protected liberty or privacy interest is administered. Those treatments include,
4182 but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

4183 Section 35. Section 63A-5-602 is amended to read:

4184 **63A-5-602. Appropriation for energy efficiency measures.**

4185 (1) For purposes of this part:

4186 (a) "Energy efficiency measures" [~~is as~~] means the same as that term is defined in
4187 Section 63A-5-701.

4188 (b) "Energy savings" means money not expended by a state agency as the result of
4189 energy efficiency measures.

4190 (c) "State agency" [~~is as~~] means the same as that term is defined in Section 63A-5-701.

4191 (2) Except as provided under Subsection (4) and subject to future budget constraints,
4192 the Legislature may not remove energy savings from a state agency's appropriation.

4193 (3) A state agency shall use energy savings to:

4194 (a) fund the cost of the energy efficiency measures; and

4195 (b) if funds are available after meeting the requirements of Subsection (3)(a), fund and
4196 implement new energy efficiency measures.

4197 (4) The Legislature may remove energy savings if:

4198 (a) a state agency has complied with Subsection (3)(a); and

4199 (b) no cost effective new energy efficiency measure is available for implementation.

4200 (5) A state agency may consult with the State Building Energy Efficiency Program
4201 manager in the Division of Facilities [~~and~~] Construction and Management regarding:

- 4202 (a) the cost effectiveness of energy efficiency measures; and
- 4203 (b) ways to measure energy savings that take into account fluctuations in energy costs
- 4204 and temperature.

4205 Section 36. Section **63E-1-102** is amended to read:

4206 **63E-1-102. Definitions -- List of independent entities.**

4207 As used in this title:

4208 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

4209 (2) "Committee" means the Retirement and Independent Entities Committee created by
4210 Section [63E-1-201](#).

4211 (3) "Independent corporation" means a corporation incorporated in accordance with
4212 Chapter 2, Independent Corporations Act.

4213 (4) (a) "Independent entity" means an entity having a public purpose relating to the
4214 state or its citizens that is individually created by the state or is given by the state the right to
4215 exist and conduct its affairs as an:

4216 (i) independent state agency; or

4217 (ii) independent corporation.

4218 (b) "Independent entity" includes the:

4219 (i) Utah Dairy Commission created by Section [4-22-2](#);

4220 (ii) Heber Valley Historic Railroad Authority created by Section [63H-4-102](#);

4221 (iii) Utah State Railroad Museum Authority created by Section [63H-5-102](#);

4222 (iv) Utah Housing Corporation created by Section [63H-8-201](#);

4223 (v) Utah State Fair Corporation created by Section [63H-6-103](#);

4224 (vi) Workers' Compensation Fund created by Section [31A-33-102](#);

4225 (vii) Utah State Retirement Office created by Section [49-11-201](#);

4226 (viii) School and Institutional Trust Lands Administration created by Section

4227 [53C-1-201](#);

4228 (ix) School and Institutional Trust Fund Office created by Section [53D-1-201](#);

4229 (x) Utah Communications Authority created by Section [~~63N-6-201~~] [63H-7a-201](#);

- 4230 (xi) Utah Energy Infrastructure Authority created by Section 63H-2-201;
- 4231 (xii) Utah Capital Investment Corporation created by Section 63N-6-301; and
- 4232 (xiii) Military Installation Development Authority created by Section 63H-1-201.
- 4233 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
- 4234 (i) the Public Service Commission of Utah created by Section 54-1-1;
- 4235 (ii) an institution within the state system of higher education;
- 4236 (iii) a city, county, or town;
- 4237 (iv) a local school district;
- 4238 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 4239 Districts; or
- 4240 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
- 4241 (5) "Independent state agency" means an entity that is created by the state, but is
- 4242 independent of the governor's direct supervisory control.
- 4243 (6) "Money held in trust" means money maintained for the benefit of:
- 4244 (a) one or more private individuals, including public employees;
- 4245 (b) one or more public or private entities; or
- 4246 (c) the owners of a quasi-public corporation.
- 4247 (7) "Public corporation" means an artificial person, public in ownership, individually
- 4248 created by the state as a body politic and corporate for the administration of a public purpose
- 4249 relating to the state or its citizens.
- 4250 (8) "Quasi-public corporation" means an artificial person, private in ownership,
- 4251 individually created as a corporation by the state, which has accepted from the state the grant of
- 4252 a franchise or contract involving the performance of a public purpose relating to the state or its
- 4253 citizens.
- 4254 Section 37. Section 63G-3-201 is amended to read:
- 4255 **63G-3-201. When rulemaking is required.**
- 4256 (1) Each agency shall:
- 4257 (a) maintain a current version of its rules; and

- 4258 (b) make it available to the public for inspection during its regular business hours.
- 4259 (2) In addition to other rulemaking required by law, each agency shall make rules when
- 4260 agency action:
- 4261 (a) authorizes, requires, or prohibits an action;
- 4262 (b) provides or prohibits a material benefit;
- 4263 (c) applies to a class of persons or another agency; and
- 4264 (d) is explicitly or implicitly authorized by statute.
- 4265 (3) Rulemaking is also required when an agency issues a written interpretation of a
- 4266 state or federal legal mandate.
- 4267 (4) Rulemaking is not required when:
- 4268 (a) agency action applies only to internal agency management, inmates or residents of a
- 4269 state correctional, diagnostic, or detention facility, persons under state legal custody, patients
- 4270 admitted to a state hospital, members of the state retirement system, or students enrolled in a
- 4271 state education institution;
- 4272 (b) a standardized agency manual applies only to internal fiscal or administrative
- 4273 details of governmental entities supervised under statute;
- 4274 (c) an agency issues policy or other statements that are advisory, informative, or
- 4275 descriptive, and do not conform to the requirements of Subsections (2) and (3); or
- 4276 (d) an agency makes nonsubstantive changes in a rule, except that the agency shall file
- 4277 all nonsubstantive changes in a rule with the office.
- 4278 (5) (a) A rule shall enumerate any penalty authorized by statute that may result from its
- 4279 violation, subject to Subsections (5)(b) and (c).
- 4280 (b) A violation of a rule may not be subject to the criminal penalty of a class C
- 4281 misdemeanor or greater offense, except as provided under Subsection (5)(c).
- 4282 (c) A violation of a rule may be subject to a class C misdemeanor or greater criminal
- 4283 penalty under Subsection (5)(a) when:
- 4284 (i) authorized by a specific state statute;
- 4285 (ii) a state law and programs under that law are established in order for the state to

4286 obtain or maintain primacy over a federal program; or

4287 (iii) state civil or criminal penalties established by state statute regarding the program
4288 are equivalent to or less than corresponding federal civil or criminal penalties.

4289 (6) Each agency shall enact rules incorporating the principles of law not already in its
4290 rules that are established by final adjudicative decisions within 120 days after the decision is
4291 announced in its cases.

4292 (7) (a) Each agency may enact a rule that incorporates by reference:

4293 (i) all or any part of another code, rule, or regulation that has been adopted by a federal
4294 agency, an agency or political subdivision of this state, an agency of another state, or by a
4295 nationally recognized organization or association;

4296 (ii) state agency implementation plans mandated by the federal government for
4297 participation in the federal program;

4298 (iii) lists, tables, illustrations, or similar materials that are subject to frequent change,
4299 fully described in the rule, and are available for public inspection; or

4300 (iv) lists, tables, illustrations, or similar materials that the executive director or the
4301 executive director's designee determines are too expensive to reproduce in the administrative
4302 code.

4303 (b) Rules incorporating materials by reference shall:

4304 (i) be enacted according to the procedures outlined in this chapter;

4305 (ii) state that the referenced material is incorporated by reference;

4306 (iii) state the date, issue, or version of the material being incorporated; and

4307 (iv) define specifically what material is incorporated by reference and identify any
4308 agency deviations from it.

4309 (c) The agency shall identify any substantive changes in the material incorporated by
4310 reference by following the rulemaking procedures of this chapter.

4311 (d) The agency shall maintain a complete and current copy of the referenced material
4312 available for public review at the agency and at the office.

4313 (8) (a) This chapter is not intended to inhibit the exercise of agency discretion within

4314 the limits prescribed by statute or agency rule.

4315 (b) An agency may enact a rule creating a justified exception to a rule.

4316 (9) An agency may obtain assistance from the attorney general to ensure that its rules
4317 meet legal and constitutional requirements.

4318 Section 38. Section **63G-3-601** is amended to read:

4319 **63G-3-601. Interested parties -- Petition for agency action.**

4320 (1) As used in this section, "initiate rulemaking proceedings" means the filing, for the
4321 purposes of publication in accordance with Subsection **63G-3-301(4)**, of an agency's proposed
4322 rule to implement a petition for the making, amendment, or repeal of a rule as provided in this
4323 section.

4324 (2) An interested person may petition an agency to request the making, amendment, or
4325 repeal of a rule.

4326 (3) The [~~division~~] department shall prescribe by rule the form for petitions and the
4327 procedure for their submission, consideration, and disposition.

4328 (4) A statement shall accompany the proposed rule, or proposed amendment or repeal
4329 of a rule, demonstrating that the proposed action is within the jurisdiction of the agency and
4330 appropriate to the powers of the agency.

4331 (5) Within 60 days after submission of a petition, the agency shall either deny the
4332 petition in writing, stating its reasons for the denial, or initiate rulemaking proceedings.

4333 (6) (a) If the petition is submitted to a board that has been granted rulemaking authority
4334 by the Legislature, the board shall, within 45 days of the submission of the petition, place the
4335 petition on its agenda for review.

4336 (b) Within 80 days of the submission of the petition, the board shall either:

4337 (i) deny the petition in writing stating its reasons for denial; or

4338 (ii) initiate rulemaking proceedings.

4339 (7) If the agency or board has not provided the petitioner written notice that the agency
4340 has denied the petition or initiated rulemaking proceedings within the time limitations specified
4341 in Subsection (5) or (6) respectively, the petitioner may seek a writ of mandamus in state

4342 district court.

4343 Section 39. Section **63G-6a-103** is amended to read:

4344 **63G-6a-103. Definitions.**

4345 As used in this chapter:

4346 (1) "Administrative law judge" means the same as that term is defined in Section
4347 [67-19e-102](#).

4348 (2) "Administrative law judge service" means service provided by an administrative
4349 law judge.

4350 (3) "Applicable rulemaking authority" means:

4351 (a) for a legislative procurement unit, the Legislative Management Committee;

4352 (b) for a judicial procurement unit, the Judicial Council;

4353 (c) (i) only to the extent of the procurement authority expressly granted to the
4354 procurement unit by statute:

4355 (A) for the building board or the Division of Facilities Construction and Management,
4356 created in Section [63A-5-201](#), the building board;

4357 (B) for the Office of the Attorney General, the attorney general; and

4358 (C) for the Department of Transportation created in Section [72-1-201](#), the executive
4359 director of the Department of Transportation; and

4360 (ii) for each other executive branch procurement unit, the board;

4361 (d) for a local government procurement unit:

4362 (i) the legislative body of the local government procurement unit; or

4363 (ii) an individual or body designated by the legislative body of the local government
4364 procurement unit;

4365 (e) for a school district or a public school, the board, except to the extent of a school
4366 district's own nonadministrative rules that do not conflict with the provisions of this chapter;

4367 (f) for a state institution of higher education, the State Board of Regents;

4368 (g) for a public transit district, the chief executive of the public transit district;

4369 (h) for a local district other than a public transit district or for a special service district:

- 4370 (i) before January 1, 2015, the board of trustees of the local district or the governing
4371 body of the special service district; or
- 4372 (ii) on or after January 1, 2015, the board, except to the extent that the board of trustees
4373 of the local district or the governing body of the special service district makes its own rules:
- 4374 (A) with respect to a subject addressed by board rules; or
4375 (B) that are in addition to board rules; or
- 4376 (i) for any other procurement unit, the board.
- 4377 (4) "Approved vendor" means a vendor who has been approved through the approved
4378 vendor list process.
- 4379 (5) "Approved vendor list" means a list of approved vendors established under Section
4380 [63G-6a-507](#).
- 4381 (6) "Approved vendor list process" means the procurement process described in
4382 Section [63G-6a-507](#).
- 4383 (7) "Bidder" means a person who submits a bid or price quote in response to an
4384 invitation for bids.
- 4385 (8) "Bidding process" means the procurement process described in Part 6, Bidding.
- 4386 (9) "Board" means the Utah State Procurement Policy Board, created in Section
4387 [63G-6a-202](#).
- 4388 (10) "Building board" means the State Building Board, created in Section [63A-5-101](#).
- 4389 (11) "Change directive" means a written order signed by the procurement officer that
4390 directs the contractor to suspend work or make changes, as authorized by contract, without the
4391 consent of the contractor.
- 4392 (12) "Change order" means a written alteration in specifications, delivery point, rate of
4393 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual
4394 agreement of the parties to the contract.
- 4395 (13) "Chief procurement officer" means the chief procurement officer appointed under
4396 Subsection [63G-6a-302\(1\)](#).
- 4397 (14) "Conducting procurement unit" means a procurement unit that conducts all

4398 aspects of a procurement:

4399 (a) except:

4400 (i) reviewing a solicitation to verify that it is in proper form; and

4401 (ii) causing the publication of a notice of a solicitation; and

4402 (b) including:

4403 (i) preparing any solicitation document;

4404 (ii) appointing an evaluation committee;

4405 (iii) conducting the evaluation process, except as provided in Subsection

4406 [63G-6a-707](#)(6)(b) relating to scores calculated for costs of proposals;

4407 (iv) selecting and recommending the person to be awarded a contract;

4408 (v) negotiating the terms and conditions of a contract, subject to the issuing

4409 procurement unit's approval; and

4410 (vi) contract administration.

4411 (15) "Conservation district" means the same as that term is defined in Section

4412 [17D-3-102](#).

4413 (16) "Construction":

4414 (a) means services, including work, and supplies for a project for the construction,

4415 renovation, alteration, improvement, or repair of a public facility on real property; and

4416 (b) does not include services and supplies for the routine, day-to-day operation, repair,

4417 or maintenance of an existing public facility.

4418 (17) "Construction manager/general contractor":

4419 (a) means a contractor who enters into a contract:

4420 (i) for the management of a construction project; and

4421 (ii) that allows the contractor to subcontract for additional labor and materials that are

4422 not included in the contractor's cost proposal submitted at the time of the procurement of the

4423 contractor's services; and

4424 (b) does not include a contractor whose only subcontract work not included in the

4425 contractor's cost proposal submitted as part of the procurement of the contractor's services is to

4426 meet subcontracted portions of change orders approved within the scope of the project.

4427 (18) "Contract" means an agreement for a procurement.

4428 (19) "Contract administration" means all functions, duties, and responsibilities
4429 associated with managing, overseeing, and carrying out a contract between a procurement unit
4430 and a contractor, including:

4431 (a) implementing the contract;

4432 (b) ensuring compliance with the contract terms and conditions by the conducting
4433 procurement unit and the contractor;

4434 (c) executing change orders;

4435 (d) processing contract amendments;

4436 (e) resolving, to the extent practicable, contract disputes;

4437 (f) curing contract errors and deficiencies;

4438 (g) terminating a contract;

4439 (h) measuring or evaluating completed work and contractor performance;

4440 (i) computing payments under the contract; and

4441 (j) closing out a contract.

4442 (20) "Contractor" means a person who is awarded a contract with a procurement unit.

4443 (21) "Cooperative procurement" means procurement conducted by, or on behalf of:

4444 (a) more than one procurement unit; or

4445 (b) a procurement unit and a cooperative purchasing organization.

4446 (22) "Cooperative purchasing organization" means an organization, association, or
4447 alliance of purchasers established to combine purchasing power in order to obtain the best
4448 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).

4449 (23) "Cost-plus-a-percentage-of-cost contract" means a contract under which the
4450 contractor is paid a percentage of the total actual expenses or costs in addition to the
4451 contractor's actual expenses or costs.

4452 (24) "Cost-reimbursement contract" means a contract under which a contractor is
4453 reimbursed for costs which are allowed and allocated in accordance with the contract terms and

4454 the provisions of this chapter, and a fee, if any.

4455 (25) "Days" means calendar days, unless expressly provided otherwise.

4456 (26) "Definite quantity contract" means a fixed price contract that provides for a
4457 specified amount of supplies over a specified period, with deliveries scheduled according to a
4458 specified schedule.

4459 (27) "Design-build" means the procurement of design professional services and
4460 construction by the use of a single contract.

4461 (28) "Design professional" means:

4462 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects
4463 Licensing Act; or

4464 (b) an individual licensed as a professional engineer or professional land surveyor
4465 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing
4466 Act.

4467 (29) "Design professional procurement process" means the procurement process
4468 described in Part 15, Design Professional Services.

4469 (30) "Design professional services" means:

4470 (a) professional services within the scope of the practice of architecture as defined in
4471 Section [58-3a-102](#);

4472 (b) professional engineering as defined in Section [58-22-102](#); or

4473 (c) master planning and programming services.

4474 (31) "Director" means the director of the division.

4475 (32) "Division" means the Division of Purchasing and General Services, created in
4476 Section [63A-2-101](#).

4477 (33) "Educational procurement unit" means:

4478 (a) a school district;

4479 (b) a public school, including a local school board and a charter school;

4480 (c) the Utah Schools for the Deaf and Blind;

4481 (d) the Utah Education and Telehealth Network; or

4482 (e) an institution of higher education of the state.

4483 (34) "Established catalogue price" means the price included in a catalogue, price list,
4484 schedule, or other form that:

4485 (a) is regularly maintained by a manufacturer or contractor;

4486 (b) is published or otherwise available for inspection by customers; and

4487 (c) states prices at which sales are currently or were last made to a significant number
4488 of any category of buyers or buyers constituting the general buying public for the supplies or
4489 services involved.

4490 (35) "Executive branch procurement unit" means a department, division, office,
4491 bureau, agency, or other organization within the state executive branch.

4492 (36) "Fixed price contract" means a contract that provides a price, for each
4493 procurement item obtained under the contract, that is not subject to adjustment except to the
4494 extent that:

4495 (a) the contract provides, under circumstances specified in the contract, for an
4496 adjustment in price that is not based on cost to the contractor; or

4497 (b) an adjustment is required by law.

4498 (37) "Fixed price contract with price adjustment" means a fixed price contract that
4499 provides for an upward or downward revision of price, precisely described in the contract, that:

4500 (a) is based on the consumer price index or another commercially acceptable index,
4501 source, or formula; and

4502 (b) is not based on a percentage of the cost to the contractor.

4503 (38) "Grant" means an expenditure of public funds or other assistance, or an agreement
4504 to expend public funds or other assistance, for a public purpose authorized by law, without
4505 acquiring a procurement item in exchange.

4506 (39) "Head of a procurement unit" means:

4507 (a) for a legislative procurement unit, any person designated by rule made by the
4508 applicable rulemaking authority;

4509 (b) for an executive branch procurement unit:

- 4510 (i) the director of the division; or
- 4511 (ii) any other person designated by the board, by rule;
- 4512 (c) for a judicial procurement unit:
 - 4513 (i) the Judicial Council; or
 - 4514 (ii) any other person designated by the Judicial Council, by rule;
- 4515 (d) for a local government procurement unit:
 - 4516 (i) the legislative body of the local government procurement unit; or
 - 4517 (ii) any other person designated by the local government procurement unit;
- 4518 (e) for a local district other than a public transit district, the board of trustees of the
- 4519 local district or a designee of the board of trustees;
- 4520 (f) for a special service district, the governing body of the special service district or a
- 4521 designee of the governing body;
- 4522 (g) for a local building authority, the board of directors of the local building authority or
- 4523 a designee of the board of directors;
- 4524 (h) for a conservation district, the board of supervisors of the conservation district or a
- 4525 designee of the board of supervisors;
- 4526 (i) for a public corporation, the board of directors of the public corporation or a
- 4527 designee of the board of directors;
- 4528 (j) for a school district or any school or entity within a school district, the board of the
- 4529 school district, or the board's designee;
- 4530 (k) for a charter school, the individual or body with executive authority over the charter
- 4531 school, or the individual's or body's designee;
- 4532 (l) for an institution of higher education of the state, the president of the institution of
- 4533 higher education, or the president's designee; or
- 4534 (m) for a public transit district, the board of trustees or a designee of the board of
- 4535 trustees.
- 4536 (40) "Immaterial error":
- 4537 (a) means an irregularity or abnormality that is:

- 4538 (i) a matter of form that does not affect substance; or
- 4539 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,
- 4540 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and
- 4541 (b) includes:
- 4542 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a
- 4543 professional license, bond, or insurance certificate;
- 4544 (ii) a typographical error;
- 4545 (iii) an error resulting from an inaccuracy or omission in the solicitation; and
- 4546 (iv) any other error that the chief procurement officer or the head of a procurement unit
- 4547 with independent procurement authority reasonably considers to be immaterial.
- 4548 (41) "Indefinite quantity contract" means a fixed price contract that:
- 4549 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
- 4550 procurement unit; and
- 4551 (b) (i) does not require a minimum purchase amount; or
- 4552 (ii) provides a maximum purchase limit.
- 4553 (42) "Independent procurement authority" means authority granted to a procurement
- 4554 unit under Subsection [63G-6a-106\(4\)\(a\)](#).
- 4555 (43) "Invitation for bids":
- 4556 (a) means a document used to solicit:
- 4557 (i) bids to provide a procurement item to a procurement unit; or
- 4558 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
- 4559 (b) includes all documents attached to or incorporated by reference in a document
- 4560 described in Subsection (43)(a).
- 4561 (44) "Issuing procurement unit" means a procurement unit that:
- 4562 (a) reviews a solicitation to verify that it is in proper form;
- 4563 (b) causes the notice of a solicitation to be published; and
- 4564 (c) negotiates and approves the terms and conditions of a contract.
- 4565 (45) "Judicial procurement unit" means:

4566 (a) the Utah Supreme Court;
4567 (b) the Utah Court of Appeals;
4568 (c) the Judicial Council;
4569 (d) a state judicial district; or
4570 (e) an office, committee, subcommittee, or other organization within the state judicial
4571 branch.

4572 (46) "Labor hour contract" is a contract under which:

4573 (a) the supplies and materials are not provided by, or through, the contractor; and
4574 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
4575 profit for a specified number of labor hours or days.

4576 (47) "Legislative procurement unit" means:

4577 (a) the Legislature;
4578 (b) the Senate;
4579 (c) the House of Representatives;
4580 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or
4581 (e) an office, committee, subcommittee, commission, or other organization within the
4582 state legislative branch.

4583 (48) "Local building authority" means the same as that term is defined in Section
4584 [17D-2-102](#).

4585 (49) "Local district" means the same as that term is defined in Section [17B-1-102](#).

4586 (50) "Local government procurement unit" means:

4587 (a) a county or municipality, and each office or agency of the county or municipality,
4588 unless the county or municipality adopts its own procurement code by ordinance;
4589 (b) a county or municipality that has adopted this entire chapter by ordinance, and each
4590 office or agency of that county or municipality; or
4591 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to
4592 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each
4593 office or agency of that county or municipality.

4594 (51) "Multiple award contracts" means the award of a contract for an indefinite
4595 quantity of a procurement item to more than one bidder or offeror.

4596 (52) "Multiyear contract" means a contract that extends beyond a one-year period,
4597 including a contract that permits renewal of the contract, without competition, beyond the first
4598 year of the contract.

4599 (53) "Municipality" means a city, town, or metro township.

4600 (54) "Nonadopting local government procurement unit" means:

4601 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,
4602 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,
4603 General Provisions Related to Protest or Appeal; and

4604 (b) each office or agency of a county or municipality described in Subsection (54)(a).

4605 (55) "Offeror" means a person who submits a proposal in response to a request for
4606 proposals.

4607 (56) "Person" means the same as that term is defined in Section [68-3-12.5](#), excluding a
4608 political subdivision and a government office, department, division, bureau, or other body of
4609 government.

4610 (57) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
4611 under the requirements of this chapter.

4612 (58) "Procure" means to acquire a procurement item through a procurement.

4613 (59) "Procurement":

4614 (a) means a procurement unit's acquisition of a procurement item through an
4615 expenditure of public funds, or an agreement to expend public funds;

4616 (b) includes all functions that pertain to the acquisition of a procurement item,
4617 including:

4618 (i) preparing and issuing a solicitation; and

4619 (ii) (A) conducting a standard procurement process; or

4620 (B) conducting a procurement process that is an exception to a standard procurement
4621 process under Part 8, Exceptions to Procurement Requirements; and

- 4622 (c) does not include a grant.
- 4623 (60) "Procurement item" means a supply, a service, or construction.
- 4624 (61) "Procurement officer" means:
- 4625 (a) for a procurement unit with independent procurement authority:
- 4626 (i) the head of the procurement unit;
- 4627 (ii) a designee of the head of the procurement unit; or
- 4628 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 4629 (b) for the division or a procurement unit without independent procurement authority,
- 4630 the chief procurement officer.
- 4631 (62) "Procurement unit":
- 4632 (a) means:
- 4633 (i) a legislative procurement unit;
- 4634 (ii) an executive branch procurement unit;
- 4635 (iii) a judicial procurement unit;
- 4636 (iv) an educational procurement unit;
- 4637 (v) a local government procurement unit;
- 4638 (vi) a local district;
- 4639 (vii) a special service district;
- 4640 (viii) a local building authority;
- 4641 (ix) a conservation district;
- 4642 (x) a public corporation; or
- 4643 (xi) a public transit district; and
- 4644 (b) does not include a political subdivision created under Title 11, Chapter 13,
- 4645 Interlocal Cooperation Act.
- 4646 (63) "Professional service" means labor, effort, or work that requires an elevated
- 4647 degree of specialized knowledge and discretion, including labor, effort, or work in the field of:
- 4648 (a) accounting;
- 4649 (b) administrative law judge service;

- 4650 [~~(b)~~] (c) architecture;
- 4651 [~~(e)~~] (d) construction design and management;
- 4652 [~~(d)~~] (e) engineering;
- 4653 [~~(e)~~] (f) financial services;
- 4654 [~~(f)~~] (g) information technology;
- 4655 [~~(g)~~] (h) the law;
- 4656 [~~(h)~~] (i) medicine;
- 4657 [~~(i)~~] (j) psychiatry; or
- 4658 [~~(j)~~] (k) underwriting.
- 4659 (64) "Protest officer" means:
- 4660 (a) for the division or a procurement unit with independent procurement authority:
- 4661 (i) the head of the procurement unit;
- 4662 (ii) a designee of the head of the procurement unit; or
- 4663 (iii) a person designated by rule made by the applicable rulemaking authority; or
- 4664 (b) for a procurement unit without independent procurement authority, the chief
- 4665 procurement officer or the chief procurement officer's designee.
- 4666 (65) "Public corporation" means the same as that term is defined in Section [63E-1-102](#).
- 4667 (66) "Public entity" means any government entity of the state or political subdivision of
- 4668 the state, including:
- 4669 (a) a procurement unit;
- 4670 (b) a municipality or county, regardless of whether the municipality or county has
- 4671 adopted this chapter or any part of this chapter; and
- 4672 (c) any other government entity located in the state that expends public funds.
- 4673 (67) "Public facility" means a building, structure, infrastructure, improvement, or other
- 4674 facility of a public entity.
- 4675 (68) "Public funds" means money, regardless of its source, including from the federal
- 4676 government, that is owned or held by a procurement unit.
- 4677 (69) "Public transit district" means a public transit district organized under Title 17B,

4678 Chapter 2a, Part 8, Public Transit District Act.

4679 (70) "Qualified vendor" means a vendor who:

4680 (a) is responsible; and

4681 (b) submits a responsive statement of qualifications under Section [63G-6a-410](#) that
4682 meets the minimum mandatory requirements, evaluation criteria, and any applicable score
4683 thresholds set forth in the request for statement of qualifications.

4684 (71) "Real property" means land and any building, fixture, improvement, appurtenance,
4685 structure, or other development that is permanently affixed to land.

4686 (72) "Request for information" means a nonbinding process through which a
4687 procurement unit requests information relating to a procurement item.

4688 (73) "Request for proposals" means a document used to solicit proposals to provide a
4689 procurement item to a procurement unit, including all other documents that are attached to that
4690 document or incorporated in that document by reference.

4691 (74) "Request for proposals process" means the procurement process described in Part
4692 7, Request for Proposals.

4693 (75) "Request for statement of qualifications" means a document used to solicit
4694 information about the qualifications of a person interested in responding to a potential
4695 procurement, including all other documents attached to that document or incorporated in that
4696 document by reference.

4697 (76) "Requirements contract" means a contract:

4698 (a) under which a contractor agrees to provide a procurement unit's entire requirements
4699 for certain procurement items at prices specified in the contract during the contract period; and

4700 (b) that:

4701 (i) does not require a minimum purchase amount; or

4702 (ii) provides a maximum purchase limit.

4703 (77) "Responsible" means being capable, in all respects, of:

4704 (a) meeting all the requirements of a solicitation; and

4705 (b) fully performing all the requirements of the contract resulting from the solicitation,

4706 including being financially solvent with sufficient financial resources to perform the contract.

4707 (78) "Responsive" means conforming in all material respects to the requirements of a
4708 solicitation.

4709 (79) "Sealed" means manually or electronically secured to prevent disclosure.

4710 (80) "Service":

4711 (a) means labor, effort, or work to produce a result that is beneficial to a procurement
4712 unit;

4713 (b) includes a professional service; and

4714 (c) does not include labor, effort, or work provided under an employment agreement or
4715 a collective bargaining agreement.

4716 (81) "Small purchase process" means the procurement process described in Section
4717 [63G-6a-506](#).

4718 (82) "Sole source contract" means a contract resulting from a sole source procurement.

4719 (83) "Sole source procurement" means a procurement without competition pursuant to
4720 a determination under Subsection [63G-6a-802\(1\)\(a\)](#) that there is only one source for the
4721 procurement item.

4722 (84) "Solicitation" means an invitation for bids, request for proposals, request for
4723 statement of qualifications, or request for information.

4724 (85) "Solicitation response" means:

4725 (a) a bid submitted in response to an invitation for bids;

4726 (b) a proposal submitted in response to a request for proposals; or

4727 (c) a statement of qualifications submitted in response to a request for statement of
4728 qualifications.

4729 (86) "Special service district" means the same as that term is defined in Section
4730 [17D-1-102](#).

4731 (87) "Specification" means any description of the physical or functional characteristics
4732 or of the nature of a procurement item included in an invitation for bids or a request for
4733 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

- 4734 (a) a requirement for inspecting or testing a procurement item; or
4735 (b) preparing a procurement item for delivery.
- 4736 (88) "Standard procurement process" means:
4737 (a) the bidding process;
4738 (b) the request for proposals process;
4739 (c) the approved vendor list process;
4740 (d) the small purchase process; or
4741 (e) the design professional procurement process.
- 4742 (89) "State cooperative contract" means a contract awarded by the division for and in
4743 behalf of all public entities.
- 4744 (90) "Statement of qualifications" means a written statement submitted to a
4745 procurement unit in response to a request for statement of qualifications.
- 4746 (91) "Subcontractor":
4747 (a) means a person under contract with a contractor or another subcontractor to provide
4748 services or labor for design or construction;
4749 (b) includes a trade contractor or specialty contractor; and
4750 (c) does not include a supplier who provides only materials, equipment, or supplies to a
4751 contractor or subcontractor.
- 4752 (92) "Supply" means a good, material, technology, piece of equipment, or any other
4753 item of personal property.
- 4754 (93) "Tie bid" means that the lowest responsive bids of responsible bidders are
4755 identical in price.
- 4756 (94) "Time and materials contract" means a contract under which the contractor is paid:
4757 (a) the actual cost of direct labor at specified hourly rates;
4758 (b) the actual cost of materials and equipment usage; and
4759 (c) an additional amount, expressly described in the contract, to cover overhead and
4760 profit, that is not based on a percentage of the cost to the contractor.
- 4761 (95) "Transitional costs":

- 4762 (a) means the costs of changing:
- 4763 (i) from an existing provider of a procurement item to another provider of that
- 4764 procurement item; or
- 4765 (ii) from an existing type of procurement item to another type;
- 4766 (b) includes:
- 4767 (i) training costs;
- 4768 (ii) conversion costs;
- 4769 (iii) compatibility costs;
- 4770 (iv) costs associated with system downtime;
- 4771 (v) disruption of service costs;
- 4772 (vi) staff time necessary to implement the change;
- 4773 (vii) installation costs; and
- 4774 (viii) ancillary software, hardware, equipment, or construction costs; and
- 4775 (c) does not include:
- 4776 (i) the costs of preparing for or engaging in a procurement process; or
- 4777 (ii) contract negotiation or drafting costs.
- 4778 (96) "Trial use contract" means a contract for a procurement item that the procurement
- 4779 unit acquires for a trial use or testing to determine whether the procurement item will benefit
- 4780 the procurement unit.
- 4781 (97) "Vendor":
- 4782 (a) means a person who is seeking to enter into a contract with a procurement unit to
- 4783 provide a procurement item; and
- 4784 (b) includes:
- 4785 (i) a bidder;
- 4786 (ii) an offeror;
- 4787 (iii) an approved vendor; and
- 4788 (iv) a design professional.
- 4789 Section 40. Section **63G-6a-2402** is amended to read:

4790 **63G-6a-2402. Definitions.**

4791 As used in this part:

4792 (1) "Contract administration professional":

4793 (a) means an individual who:

4794 (i) is:

4795 (A) directly under contract with a procurement unit; or

4796 (B) employed by a person under contract with a procurement unit; and

4797 (ii) has responsibility in:

4798 (A) developing a solicitation or grant, or conducting the procurement process; or

4799 (B) supervising or overseeing the administration or management of a contract or grant;

4800 and

4801 (b) does not include an employee of the procurement unit.

4802 (2) "Contribution":

4803 (a) means a voluntary gift or donation of money, service, or anything else of value, to a
4804 public entity for the public entity's use and not for the primary use of an individual employed
4805 by the public entity; and

4806 (b) includes:

4807 (i) a philanthropic donation;

4808 (ii) admission to a seminar, vendor fair, charitable event, fundraising event, or similar
4809 event that relates to the function of the public entity;

4810 (iii) the purchase of a booth or other display space at an event sponsored by the public
4811 entity or a group of which the public entity is a member; and

4812 (iv) the sponsorship of an event that is organized by the public entity.

4813 (3) "Family member" means a father, mother, husband, wife, son, daughter, sister,
4814 brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
4815 sister-in-law, son-in-law, or daughter-in-law.

4816 (4) "Governing body" means an administrative, advisory, executive, or legislative body
4817 of a public entity.

- 4818 (5) "Gratuity":
- 4819 (a) means anything of value given:
- 4820 (i) without anything provided in exchange; or
- 4821 (ii) in excess of the market value of that which is provided in exchange;
- 4822 (b) includes:
- 4823 (i) a gift or favor;
- 4824 (ii) money;
- 4825 (iii) a loan at an interest rate below the market rate or with terms that are more
- 4826 advantageous to the borrower than terms offered generally on the market;
- 4827 (iv) anything of value provided with an award, other than a certificate, plaque, or
- 4828 trophy;
- 4829 (v) employment;
- 4830 (vi) admission to an event;
- 4831 (vii) a meal, lodging, or travel;
- 4832 (viii) entertainment for which a charge is normally made; and
- 4833 (ix) a raffle, drawing for a prize, or lottery; and
- 4834 (c) does not include:
- 4835 (i) an item, including a meal in association with a training seminar, that is:
- 4836 (A) included in a contract or grant; or
- 4837 (B) provided in the proper performance of a requirement of a contract or grant;
- 4838 (ii) an item requested to evaluate properly the award of a contract or grant;
- 4839 (iii) a rebate, coupon, discount, airline travel award, dividend, or other offering
- 4840 included in the price of a procurement item;
- 4841 (iv) a meal provided by an organization or association, including a professional or
- 4842 educational association, an association of vendors, or an association composed of public
- 4843 agencies or public entities, that does not, as an organization or association, respond to
- 4844 solicitations;
- 4845 (v) a product sample submitted to a public entity to assist the public entity to evaluate a

4846 solicitation;

4847 (vi) a political campaign contribution;

4848 (vii) an item generally available to the public; or

4849 (viii) anything of value that one public agency provides to another public agency.

4850 (6) "Hospitality gift":

4851 (a) means a token gift of minimal value, including a pen, pencil, stationery, toy, pin,
4852 trinket, snack, beverage, or appetizer, given for promotional or hospitality purposes; and

4853 (b) does not include money, a meal, admission to an event for which a charge is
4854 normally made, entertainment for which a charge is normally made, travel, or lodging.

4855 (7) "Kickback":

4856 (a) means a negotiated bribe provided in connection with a procurement or the
4857 administration of a contract or grant; and

4858 (b) does not include anything listed in Subsection (5)(c).

4859 (8) "Procurement" has the same meaning as defined in Section [63G-6a-103](#), but also
4860 includes the awarding of a grant.

4861 (9) "Procurement professional":

4862 (a) means an individual who is an employee, and not an independent contractor, of a
4863 procurement unit, and who, by title or primary responsibility:

4864 (i) has procurement decision making authority; and

4865 (ii) is assigned to be engaged in, or is engaged in:

4866 (A) the procurement process; or

4867 (B) the process of administering a contract or grant, including enforcing contract or
4868 grant compliance, approving contract or grant payments, or approving contract or grant change
4869 orders or amendments; and

4870 (b) excludes:

4871 (i) any individual who, by title or primary responsibility, does not have procurement
4872 decision making authority;

4873 (ii) an individual holding an elective office;

- 4874 (iii) a member of a governing body;
- 4875 (iv) a chief executive of a public entity or a chief assistant or deputy of the chief
- 4876 executive, if the chief executive, chief assistant, or deputy, respectively, has a variety of duties
- 4877 and responsibilities beyond the management of the procurement process or the contract or grant
- 4878 administration process;
- 4879 (v) the superintendent, business administrator, principal, or vice principal of a school
- 4880 district or charter school, or the chief assistant or deputy of the superintendent, business
- 4881 administrator, principal, or vice principal;
- 4882 (vi) a university or college president, vice president, business administrator, or dean;
- 4883 (vii) a chief executive of a local district, as defined in Section 17B-1-102, a special
- 4884 service district, as defined in Section 17D-1-102, or a political subdivision created under Title
- 4885 11, Chapter 13, Interlocal Cooperation Act;
- 4886 (viii) an employee of a public entity with:
- 4887 (A) an annual budget of \$1,000,000 or less; or
- 4888 (B) no more than four full-time employees; and
- 4889 (ix) an executive director or director of an executive branch procurement unit who:
- 4890 (A) by title or primary responsibility, does not have procurement decision making
- 4891 authority; and
- 4892 (B) is not assigned to engage in, and is not engaged in, the procurement process.
- 4893 (10) "Public agency" has the same meaning as defined in Section 11-13-103, but also
- 4894 includes all officials, employees, and official representatives of a public agency, as defined in
- 4895 Section 11-13-103.

4896 Section 41. Section **63H-6-104.5** is amended to read:

4897 **63H-6-104.5. State Fair Park Committee -- Creation -- Duties.**

- 4898 (1) To assist the board in the execution of the board's duties under this chapter, there is
- 4899 created the State Fair Park Committee consisting of the following six members:
- 4900 (a) three members of the Senate appointed by the president of the Senate, no more than
- 4901 two of whom are from the same political party; and

4902 (b) three members from the House of Representatives appointed by the speaker of the
4903 House, no more than two of whom are from the same political party.

4904 (2) (a) The president of the Senate shall designate a member of the Senate appointed
4905 under Subsection (1)(a) as cochair of the committee.

4906 (b) The speaker of the House of Representatives shall designate a member of the House
4907 of Representatives appointed under Subsection (1)(b) as cochair of the committee.

4908 (3) (a) A majority of the members of the [advisory] committee constitutes a quorum.

4909 (b) The action of a majority of a quorum constitutes the action of the committee.

4910 (4) The committee shall meet as necessary, as determined by the cochairs of the
4911 committee.

4912 (5) Salaries and expenses of the members of the committee shall be paid in accordance
4913 with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

4914 (6) The Office of Legislative Research and General Counsel shall provide staff support
4915 to the committee.

4916 (7) The committee may consult with and make recommendations to the board
4917 regarding the board's duties under this chapter.

4918 (8) A recommendation of the committee is not binding upon the board.

4919 Section 42. Section **63I-1-220** is amended to read:

4920 **63I-1-220. Repeal dates, Title 20A.**

4921 [~~On January 1, 2017:~~]

4922 [~~(1) Subsection 20A-1-102(55) is repealed.~~]

4923 [~~(2) Subsection 20A-2-102.5(1) the language that states "20A-4-108, or" is repealed.~~]

4924 [~~(3) Subsection 20A-2-202(3)(a) the language that states "Except as provided in
4925 Subsection 20A-4-108(6)," is repealed.~~]

4926 [~~(4) Subsection 20A-2-204(5)(a) the language that states "Except as provided in
4927 Subsection 20A-4-108(7)," is repealed.~~]

4928 [~~(5) Subsection 20A-2-205(7)(a) the language that states "Except as provided in
4929 Subsection 20A-4-108(8)," is repealed.~~]

4930 [~~(6) Subsection 20A-2-206(8)(c) the language that states "Except as provided in~~
4931 ~~Subsection 20A-4-108(9)," is repealed.~~]

4932 [~~(7) Subsection 20A-2-307(2)(a) is repealed.~~]

4933 [~~(8) Subsection 20A-4-107(2)(b) the language that states "Except as provided in~~
4934 ~~Subsection 20A-4-108(10)," is repealed.~~]

4935 [~~(9) Subsection 20A-4-107(3) the language that states "or if the voter is, in accordance~~
4936 ~~with the pilot project, registered to vote under Subsection 20A-4-108(10)," is repealed.~~]

4937 [~~(10) Subsection 20A-4-107(4) the language that states "Except as provided in~~
4938 ~~Subsection 20A-4-108(12)," is repealed.~~]

4939 [~~(11) Section 20A-4-108 is repealed.~~]

4940 Section 43. Section **63I-1-231** is amended to read:

4941 **63I-1-231. Repeal dates, Title 31A.**

4942 (1) Section **31A-2-217**, Coordination with other states, is repealed July 1, 2023.

4943 (2) Section **31A-22-619.6**, Coordination of benefits with workers' compensation
4944 claim--Health insurer's duty to pay, is repealed on July 1, 2018.

4945 [~~(3) Title 31A, Chapter 29, Comprehensive Health Insurance Pool Act, is repealed July~~
4946 ~~1, 2015.~~]

4947 [~~(4)~~] (3) Section **31A-22-642**, Insurance coverage for autism spectrum disorder, is
4948 repealed on January 1, 2019.

4949 Section 44. Section **63I-1-253** is amended to read:

4950 **63I-1-253. Repeal dates, Titles 53, 53A, and 53B.**

4951 The following provisions are repealed on the following dates:

4952 (1) Subsection **53-10-202(18)** is repealed July 1, 2018.

4953 (2) Section **53-10-202.1** is repealed July 1, 2018.

4954 (3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is
4955 repealed July 1, 2020.

4956 (4) Section **53A-13-106.5** is repealed July 1, 2019.

4957 (5) Section **53A-15-106** is repealed July 1, 2019.

4958 [~~(6)~~ Subsections ~~53A-16-113~~(3) and (4) are repealed December 31, 2016.]

4959 [~~(7)~~ Section ~~53A-16-114~~ is repealed December 31, 2016.]

4960 [~~(8)~~ Section ~~53A-17a-163~~, Performance-based Compensation Pilot Program, is
4961 repealed July 1, 2016.]

4962 [~~(9)~~ (6) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education
4963 State Plan Pilot Program, is repealed July 1, 2022.

4964 [~~(10)~~ (7) Section ~~53B-24-402~~, Rural residency training program, is repealed July 1,
4965 2020.

4966 [~~(11)~~ (8) Subsection ~~53C-3-203~~(4)(b)(vii), which provides for the distribution of
4967 money from the Land Exchange Distribution Account to the Geological Survey for test wells,
4968 other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1,
4969 2020.

4970 Section 45. Section **63I-2-210** is amended to read:

4971 **63I-2-210. Repeal dates -- Title 10.**

4972 [~~(1)~~ Subsection ~~10-2a-106~~(2), the language that states ", including a township
4973 incorporation procedure as defined in Section ~~10-2a-105~~," is repealed July 1, 2016.]

4974 [~~(2)~~ Subsection ~~10-2a-410~~(3)(d)(ii) is repealed January 1, 2017.]

4975 [~~(3)~~ Section ~~10-2a-105~~ is repealed July 1, 2016.]

4976 [~~(4)~~ Subsection ~~10-9a-304~~(2) is repealed June 1, 2016.]

4977 Section 46. Section **63I-2-259** is amended to read:

4978 **63I-2-259. Repeal dates -- Title 59.**

4979 [~~(1)~~ Subsection ~~59-2-919~~(10) is repealed December 31, 2015.]

4980 [~~(2)~~ Subsection ~~59-2-919.1~~(4) is repealed December 31, 2015.]

4981 [~~(3)~~] Subsection ~~59-2-1007~~(14) is repealed on December 31, 2018.

4982 Section 47. Section **63J-7-102** is amended to read:

4983 **63J-7-102. Scope and applicability of chapter.**

4984 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
4985 superseding provisions of this chapter by explicit reference to this chapter, the provisions of

- 4986 this chapter apply to each agency and govern each grant received on or after May 5, 2008.
- 4987 (2) This chapter does not govern:
- 4988 (a) a grant deposited into a General Fund restricted account;
- 4989 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;
- 4990 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;
- 4991 (d) a grant made to the state without a restriction or other designated purpose that is
- 4992 deposited into the General Fund as free revenue;
- 4993 (e) a grant made to the state that is restricted only to "education" and that is deposited
- 4994 into the Education Fund or Uniform School Fund as free revenue;
- 4995 (f) in-kind donations;
- 4996 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
- 4997 when required by state law or application of state law;
- 4998 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
- 4999 Contribution Act;
- 5000 (i) a grant received by an agency from another agency or political subdivision;
- 5001 (j) a grant to the Utah Dairy Commission created in Section 4-22-2;
- 5002 (k) a grant to the Heber Valley Historic Railroad Authority created in Section
- 5003 63H-4-102;
- 5004 (l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;
- 5005 (m) a grant to the Utah Housing Corporation created in Section 63H-8-201;
- 5006 (n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;
- 5007 (o) a grant to the Workers' Compensation Fund created in Section 31A-33-102;
- 5008 (p) a grant to the Utah State Retirement Office created in Section 49-11-201;
- 5009 (q) a grant to the School and Institutional Trust Lands Administration created in
- 5010 Section 53C-1-201;
- 5011 (r) a grant to the Utah Communications Authority created in Section 63H-7a-201;
- 5012 (s) a grant to the Medical Education Program created in Section 53B-24-202;
- 5013 (t) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

5014 (u) a grant to the Utah Charter School Finance Authority created in Section
5015 53A-20b-103;
5016 (v) a grant to the State Building Ownership Authority created in Section 63B-1-304; or
5017 [~~(w)~~ a grant to the Utah Comprehensive Health Insurance Pool created in Section
5018 31A-29-104; or]
5019 [~~(x)~~ (w) a grant to the Military Installation Development Authority created in Section
5020 63H-1-201.

5021 (3) An agency need not seek legislative review or approval of grants under Part 2,
5022 Grant Approval Requirements, if:

- 5023 (a) the governor has declared a state of emergency; and
- 5024 (b) the grant is donated to the agency to assist victims of the state of emergency under
5025 Subsection 53-2a-204(1).

5026 Section 48. Section 63J-8-102 is amended to read:

5027 **63J-8-102. Definitions.**

5028 As used in this chapter:

5029 (1) "ACEC" means an area of critical environmental concern as defined in 43 U.S.C.
5030 Sec. 1702.

5031 (2) "AUM" means animal unit months, a unit of grazing forage.

5032 (3) "BLM" means the United States Bureau of Land Management.

5033 (4) "BLM recommended wilderness" means a wilderness study area recommended for
5034 wilderness designation in the final report of the president of the United States to the United
5035 States Congress in 1993.

5036 (5) "Federal land use designation" means one or a combination of the following
5037 congressional or federal actions included in proposed congressional land use legislation:

- 5038 (a) designation of wilderness within the National Wilderness Preservation System;
- 5039 (b) designation of a national conservation area;
- 5040 (c) designation of a watercourse within the National Wild and Scenic River System;
- 5041 (d) designation of an ACEC;

5042 (e) designation of a national monument in accordance with the Antiquities Act [~~of~~
5043 ~~1906, 16 U.S.C. Sec. 431 et seq.~~] or by Congress;

5044 (f) designation of a national park within the National Park System;

5045 (g) designation of a national recreational area; or

5046 (h) any other designation, classification, categorization, reservation, withdrawal, or
5047 similar action that has the purpose or effect of eliminating, restricting, or reducing energy and
5048 mineral development, motorized travel, grazing, active vegetation management, or any other
5049 traditional multiple use on public land.

5050 (6) "FLPMA" means the Federal Land Policy and Management Act of 1976, 43 U.S.C.
5051 Sec. 1701 et seq.

5052 (7) "Forest Service" means the United States Forest Service within the United States
5053 Department of Agriculture.

5054 (8) "Green River Energy Zone" means the lands described as follows in Subsections
5055 (8)(a) and (b), as more fully illustrated in the maps prepared by the Carbon County and Emery
5056 County GIS Departments in February 2013, each entitled "2013 Green River Energy Zone":

5057 (a) BLM and Forest Service lands in Carbon County that are situated in the following
5058 townships: Township 12S Range 6E, Township 12S Range 7E, Township 12S Range 8E,
5059 Township 12S Range 9E, Township 12S Range 10E, Township 12S Range 11E, Township 12S
5060 Range 12E, Township 12S Range 13E, Township 12S Range 14E, Township 12S Range 15E,
5061 Township 12S Range 16E, Township 12S Range 17E, Township 12S Range 18E, Township
5062 13S Range 6E, Township 13S Range 8E, Township 13S Range 9E, Township 13S Range 10E,
5063 Township 13S Range 11E, Township 13S Range 12E, Township 13S Range 13E, Township
5064 13S Range 14E, Township 13S Range 15E, Township 13S Range 16E, Township 13S Range
5065 17E, Township 14S Range 6E, Township 14S Range 8E, Township 14S Range 9E, Township
5066 14S Range 11E, Township 14S Range 12E, Township 14S Range 13E, Township 14S Range
5067 14E, Township 14S Range 15E, Township 14S Range 16E, Township 14S Range 17E,
5068 Township 15S Range 7E, Township 15S Range 8E, Township 15S Range 9E, Township 15S
5069 Range 10E, Township 15S Range 11E, Township 15S Range 12E, Township 15S Range 13E,

5070 Township 15S Range 14E, Township 15S Range 15E, and Township 15S Range 16E; and
5071 (b) BLM and Forest Service lands in Emery County, excluding any areas that are or
5072 may be designated as wilderness, national conservation areas, or wild or scenic rivers, that are
5073 situated in the following townships and represented in the Emery County Public Land
5074 Management Act DRAFT Map prepared by Emery County and available at
5075 emerycounty.com/publiclands/LANDS-USE-15.pdf: Township 13S Range 6E, Township 14S
5076 Range 6E, Township 14S Range 7E, Township 15S Range 6E, Township 15S Range 7E,
5077 Township 16S Range 6E, Township 16S Range 7E, Township 16S Range 8E, Township 16S
5078 Range 9E, Township 16S Range 10E, Township 16S Range 11E, Township 16S Range 12E,
5079 Township 16S Range 13E, Township 16S Range 14E, Township 16S Range 15E, Township
5080 17S Range 6E, Township 17S Range 7E, Township 17S Range 8E, Township 17S Range 9E,
5081 Township 17S Range 10E, Township 17S Range 11E, Township 17S Range 12E, Township
5082 17S Range 13E, Township 17S Range 14E, Township 17S Range 15E, Township 18S Range
5083 6E, Township 18S Range 7E, Township 18S Range 8E, Township 18S Range 9E, Township
5084 18S Range 10E, Township 18S Range 11E, Township 18S Range 12E, Township 18S Range
5085 13E, Township 18S Range 14E, Township 18S Range 15E, Township 19S Range 6E,
5086 Township 19S Range 7E, Township 19S Range 8E, Township 19S Range 9E, Township 19S
5087 Range 10E, Township 19S Range 11E, Township 19S Range 12E, Township 19S Range 13E,
5088 Township 19S Range 14E, Township 19S Range 15E, Township 20S Range 6E, Township 20S
5089 Range 7E, Township 20S Range 8E, Township 20S Range 9E, Township 20S Range 10E,
5090 Township 20S Range 11E, Township 20S Range 12E, Township 20S Range 13E, Township
5091 20S Range 14E, Township 20S Range 15E, Township 20S Range 16E, Township 21S Range
5092 6E, Township 21S Range 7E, Township 21S Range 8E, Township 21S Range 9E, Township
5093 21S Range 14E, Township 21S Range 15E, Township 21S Range 16E, Township 22S Range
5094 6E, Township 22S Range 7E, Township 22S Range 8E, Township 22S Range 9E, Township
5095 22S Range 14E, Township 22S Range 15E, Township 22S Range 16E, Township 23S Range
5096 6E, Township 23S Range 7E, Township 23S Range 8E, Township 23S Range 9E, Township
5097 23S Range 13E, Township 23S Range 14E, Township 23S Range 15E, Township 23S Range

5098 16E, Township 24S Range 6E, Township 24S Range 7E, Township 24S Range 8E, Township
5099 24S Range 12E, Township 24S Range 13E, Township 24S Range 14E, Township 24S Range
5100 15E, Township 24S Range 16E, Township 24S Range 17E, Township 25S Range 6E,
5101 Township 25S Range 7E, Township 25S Range 8E, Township 25S Range 11E, Township 25S
5102 Range 12E, Township 25S Range 13E, Township 25S Range 14E, Township 25S Range 15E,
5103 Township 25S Range 16E, Township 25S Range 17E, Township 26S Range 6E, Township 26S
5104 Range 7E, Township 26S Range 8E, Township 26S Range 9E, Township 26S Range 10E,
5105 Township 26S Range 11E, Township 26S Range 12E, Township 26S Range 13E, Township
5106 26S Range 14E, Township 26S Range 15E, Township 26S Range 16E, and Township 26S
5107 Range 17E.

5108 (9) "Multiple use" means proper stewardship of the subject lands pursuant to Section
5109 103(c) of FLPMA, 43 U.S.C. Sec. 1702(c).

5110 (10) "National conservation area" means an area designated by Congress and managed
5111 by the BLM.

5112 (11) "National wild and scenic river" means a watercourse:

5113 (a) identified in a BLM or Forest Service planning process; or

5114 (b) designated as part of the National Wild and Scenic River System.

5115 (12) "National Wild and Scenic River System" means the National Wild and Scenic
5116 River System established in 16 U.S.C. Sec. 1271 et seq.

5117 (13) "Office" means the Public Lands Policy Coordinating Office created in Section
5118 [63J-4-602](#).

5119 (14) "OHV" means off-highway vehicle as defined in Section [41-22-2](#).

5120 (15) "Proposed congressional land use legislation" means a draft or a working
5121 document of congressional legislation prepared by a person that includes a federal land use
5122 designation.

5123 (16) "RARE II" means the second United States Forest Service Roadless Area Review
5124 and Evaluation report of 1984.

5125 (17) "R.S. 2477 right-of-way" means a right-of-way established in accordance with 43

5126 U.S.C. Sec. 932 repealed by FLPMA 1976.

5127 (18) "San Juan County Energy Zone" means BLM and Forest Service lands situated in
5128 the following townships in San Juan County, as more fully illustrated in the map prepared by
5129 the San Juan County GIS department in December 2014 entitled "San Juan County Energy
5130 Zone": Township 26S Range 21E, Township 26S Range 22E, Township 26S Range 23E,
5131 Township 26S Range 24E, Township 26S Range 25E, Township 26S Range 26E, Township
5132 27S Range 21E, Township 27S Range 22E, Township 27S Range 23E, Township 27S Range
5133 24E, Township 27S Range 25E, Township 27S Range 26E, Township 28S Range 21E,
5134 Township 28S Range 22E, Township 28S Range 23E, Township 28S Range 24E, Township
5135 28S Range 25E, Township 28S Range 26E, Township 29S Range 21E, Township 29S Range
5136 22E, Township 29S Range 23E, Township 29S Range 24E, Township 29S Range 25E,
5137 Township 29S Range 26E, Township 30S Range 21E, Township 30S Range 22E, Township
5138 30S Range 23E, Township 30S Range 24E, Township 30S Range 25E, Township 30S Range
5139 26E, Township 31S Range 22E, Township 31S Range 23E, Township 31S Range 24E,
5140 Township 31S Range 25E, Township 31S Range 26E, Township 32S Range 20E, Township
5141 32S Range 21E, Township 32S Range 22E, Township 32S Range 23E, Township 32S Range
5142 24E, Township 32S Range 25E, Township 32S Range 26E, Township 33S Range 19E,
5143 Township 33S Range 20E, Township 33S Range 21E, Township 33S Range 22E, Township
5144 33S Range 23E, Township 33S Range 24E, Township 33S Range 25E, Township 33S Range
5145 26E, Township 34S Range 19E, Township 34S Range 20E, Township 34S Range 21E,
5146 Township 34S Range 22E, Township 34S Range 23E, Township 34S Range 24E, Township
5147 34S Range 25E, Township 34S Range 26E, Township 35S Range 14E, Township 35S Range
5148 15E, Township 35S Range 16E, Township 35S Range 17E, Township 35S Range 18E,
5149 Township 35S Range 19E, Township 35S Range 20E, Township 35S Range 21E, Township
5150 35S Range 22E, Township 35S Range 23E, Township 35S Range 24E, Township 35S Range
5151 25E, Township 35S Range 26E, Township 36S Range 14E, Township 36S Range 15E,
5152 Township 36S Range 16E, Township 36S Range 17E, Township 36S Range 18E, Township
5153 36S Range 19E, Township 36S Range 21E, Township 36S Range 22E, Township 36S Range

5154 23E, Township 36S Range 24E, Township 36S Range 25E, Township 36S Range 26E,
5155 Township 37S Range 14E, Township 37S Range 15E, Township 37S Range 16E, Township
5156 37S Range 17E, Township 37S Range 21E, Township 37S Range 22E, Township 37S Range
5157 23E, Township 37S Range 24E, Township 37S Range 25E, Township 37S Range 26E,
5158 Township 38S Range 12E, Township 38S Range 21E, Township 38S Range 22E, Township
5159 38S Range 23E, Township 38S Range 24E, Township 38S Range 25E, Township 38S Range
5160 26E, Township 39S Range 12E, Township 39S Range 13E, Township 39S Range 15E,
5161 Township 39S Range 21E, Township 39S Range 22E, Township 39S Range 23E, Township
5162 39S Range 24E, Township 39S Range 25E, Township 39S Range 26E, Township 40S Range
5163 14E, Township 40S Range 15E, Township 40S Range 16E, Township 40S Range 19E,
5164 Township 40S Range 20E, Township 40S Range 21E, Township 40S Range 22E, Township
5165 40S Range 23E, Township 40S Range 24E, Township 40S Range 25E, Township 40S Range
5166 26E, Township 41S Range 16E, Township 41S Range 17E, Township 41S Range 18E,
5167 Township 41S Range 19E, Township 41S Range 20E, Township 41S Range 21E, Township
5168 41S Range 22E, Township 41S Range 23E, Township 41S Range 24E, Township 41S Range
5169 25E, Township 41S Range 26E, Township 42S Range 14E, Township 42S Range 15E,
5170 Township 42S Range 16E, Township 42S Range 17E, Township 42S Range 18E, Township
5171 42S Range 19E, Township 42S Range 20E, Township 42S Range 21E, Township 42S Range
5172 22E, Township 42S Range 23E, Township 42S Range 24E, Township 42S Range 25E,
5173 Township 42S Range 26E, Township 43S Range 14E, Township 43S Range 15E, Township
5174 43S Range 16E, Township 43S Range 17E, Township 43S Range 18E, Township 43S Range
5175 19E, Township 43S Range 20E, Township 43S Range 21E, Township 43S Range 22E,
5176 Township 43S Range 23E, Township 43S Range 24E, Township 43S Range 25E, and
5177 Township 43S Range 26E.

5178 (19) "Settlement Agreement" means the written agreement between the state and the
5179 Department of the Interior in 2003 (revised in 2005) that resolved the case of State of Utah v.
5180 Gale Norton, Secretary of Interior (United States District Court, D. Utah, Case No.
5181 2:96cv0870).

5182 (20) "SITLA" means the School and Institutional Trust Lands Administration as
5183 created in Section 53C-1-201.

5184 (21) (a) "Subject lands" means the following non-WSA BLM lands:

5185 (i) in Beaver County:

5186 (A) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah
5187 Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the
5188 region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal
5189 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5190 existed on February 17, 2011; and

5191 (B) White Rock Range, South Wah Wah Mountains, and Granite Peak according to the
5192 region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for
5193 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5194 existed on February 17, 2011;

5195 (ii) in Box Elder County: Little Goose Creek, Grouse Creek Mountains North, Grouse
5196 Creek Mountains South, Bald Eagle Mountain, Central Pilot Range, Pilot Peak, Crater Island
5197 West, Crater Island East, Newfoundland Mountains, and Grassy Mountains North according to
5198 the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal
5199 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5200 existed on February 17, 2011;

5201 (iii) in Carbon County: Desbrough Canyon and Turtle Canyon according to the region
5202 map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in
5203 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
5204 February 17, 2011;

5205 (iv) in Daggett County: Goslin Mountain, Home Mountain, Red Creek Badlands,
5206 O-wi-yu-kuts, Lower Flaming Gorge, Crouse Canyon, and Diamond Breaks according to the
5207 region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for
5208 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5209 existed on February 17, 2011;

5210 (v) in Duchesne County: Desbrough Canyon according to the region map entitled
5211 "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
5212 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5213 2011;

5214 (vi) in Emery County:

5215 (A) San Rafael River and Sweetwater Reef, according to the region map entitled
5216 "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in
5217 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
5218 February 17, 2011;

5219 (B) Flat Tops according to the region map entitled "Glen Canyon," which is available
5220 by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for
5221 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5222 existed on February 17, 2011; and

5223 (C) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef,
5224 Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled
5225 "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah"
5226 at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5227 2011;

5228 (vii) in Garfield County:

5229 (A) Pole Canyon, according to the region map entitled "Great Basin South" linked in
5230 the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
5231 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5232 2011;

5233 (B) Dirty Devil, Fiddler Butte, Little Rockies, Cane Spring Desert, and Cane Spring
5234 Desert Adjacents, according to the region map entitled "Glen Canyon," which is available by
5235 clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for
5236 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5237 existed on February 17, 2011;

5238 (C) Lampstand, Wide Hollow, Steep Creek, Brinkerhof Flats, Little Valley Canyon,
5239 Death Hollow, Studhorse Peaks, Box Canyon, Heaps Canyon, North Escalante Canyon, Colt
5240 Mesa, East of Bryce, Slopes of Canaan Peak, Horse Spring Canyon, Muley Twist Flank,
5241 Pioneer Mesa, Slopes of Bryce, Blue Hills, Mud Springs Canyon, Carcass Canyon, Willis
5242 Creek North, Kodachrome Basin, and Kodachrome Headlands, according to the region map
5243 entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for
5244 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5245 existed on February 17, 2011; and

5246 (D) Notom Bench, Mount Ellen, Bull Mountain, Dogwater Creek, Ragged Mountain,
5247 Mount Pennell, Mount Hillers, Bullfrog Creek, and Long Canyon, according to the region map
5248 entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness
5249 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
5250 February 17, 2011;

5251 (viii) in Iron County: Needle Mountains, Steamboat Mountain, Broken Ridge, Paradise
5252 Mountains, Crook Canyon, Hamlin, North Peaks, Mount Escalante, and Antelope Ridge,
5253 according to the region map entitled "Great Basin South" linked in the webpage entitled
5254 "Citizen's Proposal for Wilderness in Utah" at
5255 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5256 2011;

5257 (ix) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild
5258 Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish
5259 Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West,
5260 Keg Mountains East, Lion Peak, and Rockwell Little Sahara, according to the region map
5261 entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for
5262 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5263 existed on February 17, 2011;

5264 (x) in Kane County:

5265 (A) Willis Creek North, Willis Creek, Kodachrome Badlands, Mud Springs Canyon,

5266 Carcass Canyon, Scorpion, Bryce Boot, Paria-Hackberry Canyons, Fiftymile Canyon,
5267 Hurricane Wash, Upper Kanab Creek, Timber Mountain, Nephi Point, Paradise Canyon,
5268 Wahweap Burning Hills, Fiftymile Bench, Forty Mile Gulch, Sooner Bench 1, 2, & 3, Rock
5269 Cove, Warm Bench, Andalex Not, Vermillion Cliffs, Ladder Canyon, The Cockscomb, Nipple
5270 Bench, Moquith Mountain, Bunting Point, Glass Eye Canyon, and Pine Hollow, according to
5271 the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's
5272 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
5273 webpage existed on February 17, 2011; and

5274 (B) Orderville Canyon, Jolley Gulch, and Parunuweap Canyon, according to the region
5275 map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness
5276 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
5277 February 17, 2011;

5278 (xi) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills,
5279 Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains
5280 North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell
5281 Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass
5282 Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King
5283 Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black
5284 Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight
5285 Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah
5286 Mountains, Jackson Wash, and San Francisco Mountains, according to the region map entitled
5287 "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in
5288 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
5289 February 17, 2011;

5290 (xii) in Piute County: Kingston Ridge, Rocky Ford, and Phonolite Hill, according to
5291 the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal
5292 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5293 existed on February 17, 2011;

5294 (xiii) in San Juan County:

5295 (A) Horseshoe Point, Deadhorse Cliffs, Gooseneck, Demon's Playground, Hatch
5296 Canyon, Lockhart Basin, Indian Creek, Hart's Point, Butler Wash, Bridger Jack Mesa, and Shay
5297 Mountain, according to the region map entitled "Canyonlands Basin" linked in the webpage
5298 entitled "Citizen's Proposal for Wilderness in Utah" at
5299 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5300 2011;

5301 (B) Dark Canyon, Copper Point, Fortknocker Canyon, White Canyon, The Needle, Red
5302 Rock Plateau, Upper Red Canyon, and Tuwa Canyon, according to the region map entitled
5303 "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage
5304 entitled "Citizen's Proposal for Wilderness in Utah" at
5305 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5306 2011;

5307 (C) Hunters Canyon, Behind the Rocks, Mill Creek, and Coyote Wash, according to
5308 the region map entitled "Moab/La Sal" linked at the webpage entitled "Citizen's Proposal for
5309 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5310 existed on February 17, 2011; and

5311 (D) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument
5312 Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek
5313 Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and
5314 Valley of the Gods, according to the region map entitled "San Juan" linked at the webpage
5315 entitled "Citizen's Proposal for Wilderness in Utah" at
5316 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5317 2011;

5318 (xiv) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and
5319 Jones' Bench, according to the region map entitled "San Rafael Swell" linked at the webpage
5320 entitled "Citizen's Proposal for Wilderness in Utah" at
5321 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,

5322 2011;

5323 (xv) in Tooele County:

5324 (A) Silver Island Mountains, Crater Island East, Grassy Mountains North, Grassy
5325 Mountains South, Stansbury Island, Cedar Mountains North, Cedar Mountains Central, Cedar
5326 Mountains South, North Stansbury Mountains, Oquirrh Mountains, and Big Hollow, according
5327 to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's
5328 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
5329 webpage existed on February 17, 2011, excluding the areas that Congress designated as
5330 wilderness under the National Defense Authorization Act for Fiscal Year 2006; and

5331 (B) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and
5332 Lion Peak, according to the region map entitled "Great Basin Central" linked in the webpage
5333 entitled "Citizen's Proposal for Wilderness in Utah" at
5334 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5335 2011;

5336 (xvi) in Uintah County:

5337 (A) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf
5338 Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and
5339 Hell's Hole, according to the region map entitled "Book Cliffs" linked in the webpage entitled
5340 "Citizen's Proposal for Wilderness in Utah" at
5341 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5342 2011; and

5343 (B) Lower Flaming Gorge, Crouse Canyon Stone Bridge Draw, Diamond Mountain,
5344 Wild Mountain, Split Mountain Benches, Vivas Cake Hill, Split Mountain Benches South,
5345 Beach Draw, Stuntz Draw, Moonshine Draw, Bourdette Draw, and Bull Canyon, according to
5346 the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for
5347 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5348 existed on February 17, 2011;

5349 (xvii) in Washington County: Cougar Canyon, Docs Pass, Slaughter Creek, Butcher

5350 Knife Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains
5351 North, Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red
5352 Mountain, Cottonwood Canyon, Taylor Canyon, LaVerkin Creek, Beartrap Canyon, Deep
5353 Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park
5354 Adjacents, Crater Hill, The Watchman, and Canaan Mountain, according to the region map
5355 entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in
5356 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
5357 February 17, 2011, excluding the areas that Congress designated as wilderness and
5358 conservation areas under the Omnibus Public Lands Management Act of 2009; and

5359 (xviii) in Wayne County:

5360 (A) Sweetwater Reef, Upper Horseshoe Canyon, and Labyrinth Canyon, according to
5361 the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal
5362 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
5363 existed on February 17, 2011;

5364 (B) Flat Tops and Dirty Devil, according to the region map entitled "Glen Canyon,"
5365 which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's
5366 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
5367 webpage existed on February 17, 2011;

5368 (C) Fremont Gorge, Pleasant Creek Bench, Notom Bench, Mount Ellen, and Bull
5369 Mountain, according to the region map entitled "Henry Mountains" linked at the webpage
5370 entitled "Citizen's Proposal for Wilderness in Utah" at
5371 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5372 2011; and

5373 (D) Capital Reef Adjacents, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red
5374 Desert, and Factory Butte, according to the region map entitled "San Rafael Swell" linked at
5375 the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
5376 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
5377 2011.

5378 (b) "Subject lands" also includes all BLM and Forest Service lands in the state that are
5379 not Wilderness Area or Wilderness Study Areas;

5380 (c) "Subject lands" does not include the following lands that are the subject of
5381 consideration for a possible federal lands bill and should be managed according to the 2008
5382 Price BLM Field Office Resource Management Plan until a federal lands bill provides
5383 otherwise:

5384 (i) Turtle Canyon and Desolation Canyon according to the region map entitled "Book
5385 Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
5386 <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

5387 (ii) Labyrinth Canyon, Duma Point, and Horseshoe Point, according to the region map
5388 entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness
5389 in Utah" at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February
5390 17, 2011; and

5391 (iii) Devil's Canyon, Sid's Mountain, Mexican Mountain, San Rafael Reef, Hondu
5392 Country, Cedar Mountain, and Wild Horse, according to the region map entitled "San Rafael
5393 Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
5394 <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011.

5395 (22) "Uintah Basin Energy Zone" means BLM and Forest Service lands situated in the
5396 following townships in Daggett, Duchesne, and Uintah counties, as more fully illustrated in the
5397 map prepared by the Uintah County GIS Department in February 2012 entitled "Uintah Basin
5398 Utah Energy Zone":

5399 (a) in Daggett County, Township 3N Range 17 E, Township 3N Range 18E, Township
5400 3N Range 19E, Township 3N Range 20E, Township 3N Range 22E, Township 3N Range 23E,
5401 Township 3N Range 24E, Township 3N Range 25E, Township 2N Range 17E, Township 2N
5402 Range 18E, Township 2N Range 19E, Township 2N Range 20E, Township 2N Range 21E, and
5403 Township 2S Range 25E;

5404 (b) in Duchesne County, Township 3N Range 4W, Township 3N Range 3W, Township
5405 3N Range 2W, Township 3N Range 1W, Township 2N Range 6W, Township 2N Range 5W,

5406 Township 2N Range 4W, Township 2N Range 3W, Township 2N Range 1W, Township 1N
5407 Range 9W, Township 1N Range 8W, Township 1N Range 7W, Township 1N Range 6W,
5408 Township 1S Range 9W, Township 1S Range 8W, Township 4S Range 9W, Township 4S
5409 Range 3W, Township 4S Range 2W, Township 4S Range 1W, Township 8S Range 15E,
5410 Township 8S Range 16E, Township 8S Range 17E, Township 5S Range 9W, Township 5S
5411 Range 3W, Township 9S Range 15E, Township 9S Range 16E, Township 9S Range 17E,
5412 Township 6S Range 9W, Township 6S Range 8W, Township 6S Range 7W, Township 6S
5413 Range 6W, Township 6S Range 5W, Township 6S Range 3W, Township 10S Range 15E,
5414 Township 10S Range 16E, Township 10S Range 17E, Township 7S Range 9W, Township 7S
5415 Range 8W, Township 7S Range 7W, Township 7S Range 6W, Township 7S Range 5W,
5416 Township 7S Range 4W, Township 10S Range 11E, Township 10S Range 12E, Township 10S
5417 Range 13E, Township 10S Range 14E, Township 10S Range 15E, Township 10S Range 16E,
5418 Township 10S Range 17E, Township 11S Range 10E, Township 11S Range 11E, Township
5419 11S Range 12E, Township 11S Range 13E, Township 11S Range 14E, Township 11S Range
5420 15E, Township 11S Range 16E, and Township 11S Range 17E; and

5421 (c) in Uintah County: Township 2S Range 18E, Township 2S Range 19E, Township
5422 2S Range 20E, Township 2S Range 21E, Township 2S Range 22E, Township 2S Range 23E,
5423 Township 2S Range 24E, Township 2N Range 1W, Township 2N Range 1E, Township 2N
5424 Range 2E, Township 3S Range 18E, Township 3S Range 19E, Township 3S Range 20E,
5425 Township 3S Range 21E, Township 3S Range 22E, Township 3S Range 23E, Township 3S
5426 Range 24E, Township 4S Range 19E, Township 4S Range 20E, Township 4S Range 21E,
5427 Township 4S Range 22E, Township 4S Range 23E, Township 4S Range 24E, Township 4S
5428 Range 25E, Township 5S Range 19E, Township 5S Range 20E, Township 5S Range 21E,
5429 Township 5S Range 22E, Township 5S Range 23E, Township 5S Range 24E, Township 5S
5430 Range 25E, Township 6S Range 19E, Township 6S Range 20E, Township 6S Range 21E,
5431 Township 6S Range 22E, Township 6S Range 23E, Township 6S Range 24E, Township 6S
5432 Range 25E, Township 7S Range 19E, Township 7S Range 20E, Township 7S Range 21E,
5433 Township 7S Range 22E, Township 7S Range 23E, Township 7S Range 24E, Township 7S

5434 Range 25E, Township 8S Range 17E, Township 8S Range 18E, Township 8S Range 19E,
5435 Township 8S Range 20E, Township 8S Range 21E, Township 8S Range 22E, Township 8S
5436 Range 23E, Township 8S Range 24E, Township 8S Range 25E, Township 9S Range 17E,
5437 Township 9S Range 18E, Township 9S Range 19E, Township 9S Range 20E, Township 9S
5438 Range 21E, Township 9S Range 22E, Township 9S Range 23E, Township 9S Range 24E,
5439 Township 9S Range 25E, Township 10S Range 17E, Township 10S Range 18E, Township 10S
5440 Range 19E, Township 10S Range 20E, Township 10S Range 21E, Township 10S Range 22E,
5441 Township 10S Range 23E, Township 10S Range 24E, Township 10S Range 25E, Township
5442 11S Range 17E, Township 11S Range 18E, Township 11S Range 19E, Township 11S Range
5443 20E, Township 11S Range 21E, Township 11S Range 22E, Township 11S Range 23E,
5444 Township 11S Range 24E, Township 11S Range 25E, Township 12S Range 20E, Township
5445 12S Range 21E, Township 12S Range 22E, Township 12S Range 23E, Township 12S Range
5446 24E, Township 12S Range 25E, Township 13S Range 20E, Township 13S Range 21E,
5447 Township 13S Range 22E, Township 13S Range 23E, Township 13S Range 24E, Township
5448 13S Range 25E, Township 13S Range 26 E, Township 14S Range 21E, Township 14S Range
5449 22E, Township 14S Range 23E, Township 14S Range 24E, Township 14S Range 25E, and
5450 Township 14S Range 26E.

5451 (23) "Wilderness" means the same as that term is defined in 16 U.S.C. Sec. 1131.

5452 (24) "Wilderness area" means those BLM and Forest Service lands added to the
5453 National Wilderness Preservation System by an act of Congress.

5454 (25) "Wilderness Preservation System" means the Wilderness Preservation System
5455 established in 16 U.S.C. Sec. 1131 et seq.

5456 (26) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were
5457 identified as having the necessary wilderness character and were classified as wilderness study
5458 areas during the BLM wilderness review conducted between 1976 and 1993 by authority of 43
5459 U.S.C. Sec. 1782 and labeled as Wilderness Study Areas within the final report of the President
5460 of the United States to the United States Congress in 1993.

5461 Section 49. Section **67-1-8.1** is amended to read:

5462 **67-1-8.1. Executive Residence Commission -- Recommendations as to use,**
5463 **maintenance, and operation of executive residence.**

5464 (1) The Legislature finds and declares that:

5465 (a) the state property known as the Thomas Kearns Mansion is a recognized state
5466 landmark possessing historical and architectural qualities that should be preserved; and

5467 (b) the Thomas Kearns Mansion was the first building listed on the National Register
5468 of Historic Places in the state.

5469 (2) As used in this section:

5470 (a) "Executive residence" includes the:

5471 (i) Thomas Kearns Mansion;

5472 (ii) Carriage House building; and

5473 (iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the
5474 Carriage House building.

5475 (b) "Commission" means the Executive Residence Commission established in this
5476 section.

5477 (3) (a) An Executive Residence Commission is established to make recommendations
5478 to the State Building Board for the use, operation, maintenance, repair, rehabilitation,
5479 alteration, restoration, placement of art and monuments, or adoptive use of the executive
5480 residence.

5481 (b) The commission shall meet at least once a year and make any recommendations to
5482 the State Building Board prior to August 1 of each year.

5483 (4) The commission shall consist of nine voting members and one ex officio,
5484 nonvoting member representing the Governor's Mansion Foundation. The membership shall
5485 consist of:

5486 (a) three private citizens appointed by the governor, who have demonstrated an interest
5487 in historical preservation;

5488 (b) three additional private citizens appointed by the governor with the following
5489 background:

- 5490 (i) an interior design professional with a background in historic spaces;
5491 (ii) an architect with a background in historic preservation and restoration
5492 recommended by the Utah chapter of the American Institute of Architects; and
5493 (iii) a landscape architect with a background and knowledge of historic properties
5494 recommended by the Utah chapter of the American Society of Landscape Architects;
5495 (c) the director, or director's designee, of the Division of Art and Museums;
5496 (d) the director, or director's designee, of the Division of State History; and
5497 (e) the executive director, or executive director's designee, of the Department of
5498 Administrative Services.
- 5499 (5) (a) Except as required by Subsection (5)(b), as terms of current commission
5500 members expire, the governor shall appoint each new member or reappointed member to a
5501 four-year term ending on March 1.
- 5502 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
5503 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
5504 commission members are staggered so that approximately half of the commission is appointed
5505 every two years.
- 5506 (6) (a) The governor shall appoint a chair from among the membership of the
5507 commission.
- 5508 (b) Six members of the commission shall constitute a quorum, and either the chair or
5509 two other members of the commission may call meetings of the commission.
- 5510 (7) When a vacancy occurs in the membership for any reason, the replacement shall be
5511 appointed for the unexpired term.
- 5512 (8) A member may not receive compensation or benefits for the member's service, but
5513 may receive per diem and travel expenses in accordance with:
- 5514 (a) Section [63A-3-106](#);
5515 (b) Section [63A-3-107](#); and
5516 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
5517 [63A-3-107](#).

5518 (9) The Division of Facilities [~~and~~] Construction and Management shall provide the
5519 administrative support to the commission.

5520 Section 50. Section **67-1-15** is amended to read:

5521 **67-1-15. Approval of international trade agreement -- Consultation with Utah**
5522 **International Relations and Trade Commission.**

5523 Before binding the state or giving the federal government consent to bind the state to an
5524 international trade agreement the Governor shall consult with the Utah International Relations
5525 and Trade Commission.

5526 Section 51. Section **75-5-424** is amended to read:

5527 **75-5-424. Powers of conservator in administration.**

5528 (1) A conservator has all of the powers conferred in this chapter and any additional
5529 powers conferred by law on trustees in this state. In addition, a conservator of the estate of an
5530 unmarried minor as to whom no one has parental rights, has the duties and powers of a
5531 guardian of a minor described in Section **75-5-209** until the minor attains majority or marries,
5532 but the parental rights so conferred on a conservator do not preclude appointment of a guardian
5533 as provided by Part 2, Guardians of Minors.

5534 (2) A conservator has the power to compel the production of the protected person's
5535 estate documents, including the protected person's will, trust, power of attorney, and any
5536 advance health care directives.

5537 (3) A conservator has power without court authorization or confirmation to invest and
5538 reinvest funds of the estate as would a trustee.

5539 (4) A conservator, acting reasonably in efforts to accomplish the purpose for which the
5540 conservator was appointed, may act without court authorization or confirmation, to:

5541 (a) collect, hold, and retain assets of the estate, including land in another state, until, in
5542 his judgment, disposition of the assets should be made, and the assets may be retained even
5543 though they include an asset in which he is personally interested;

5544 (b) receive additions to the estate;

5545 (c) continue or participate in the operation of any business or other enterprise;

- 5546 (d) acquire an undivided interest in an estate asset in which the conservator, in any
5547 fiduciary capacity, holds an undivided interest;
- 5548 (e) invest and reinvest estate assets in accordance with Subsection [~~(2)~~] (3);
- 5549 (f) deposit estate funds in a bank including a bank operated by the conservator;
- 5550 (g) acquire or dispose of an estate asset, including land in another state, for cash or on
5551 credit, at public or private sale; and to manage, develop, improve, exchange, partition, change
5552 the character of, or abandon an estate asset;
- 5553 (h) make ordinary or extraordinary repairs or alterations in buildings or other
5554 structures, demolish any improvements, and raze existing or erect new party walls or buildings;
- 5555 (i) subdivide, develop, or dedicate land to public use; make or obtain the vacation of
5556 plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving
5557 or receiving considerations; and dedicate easements to public use without consideration;
- 5558 (j) enter for any purpose into a lease as lessor or lessee with or without option to
5559 purchase or renew for a term within or extending beyond the term of the conservatorship;
- 5560 (k) enter into a lease or arrangement for exploration and removal of minerals or other
5561 natural resources or enter into a pooling or unitization agreement;
- 5562 (l) grant an option involving disposition of an estate asset or take an option for the
5563 acquisition of any asset;
- 5564 (m) vote a security, in person or by general or limited proxy;
- 5565 (n) pay calls, assessments, and any other sums chargeable or accruing against or on
5566 account of securities;
- 5567 (o) sell or exercise stock subscription or conversion rights; consent, directly or through
5568 a committee or other agent, to the reorganization, consolidation, merger, dissolution, or
5569 liquidation of a corporation or other business enterprise;
- 5570 (p) hold a security in the name of a nominee or in other form without disclosure of the
5571 conservatorship so that title to the security may pass by delivery, but the conservator is liable
5572 for any act of the nominee in connection with the stock so held;
- 5573 (q) insure the assets of the estate against damage or loss and the conservator against

5574 liability with respect to third persons;

5575 (r) borrow money to be repaid from estate assets or otherwise; and advance money for
5576 the protection of the estate or the protected person, and for all expenses, losses, and liabilities
5577 sustained in the administration of the estate or because of the holding or ownership of any
5578 estate assets, and the conservator has a lien on the estate as against the protected person for
5579 advances so made;

5580 (s) pay or contest any claim; settle a claim by or against the estate or the protected
5581 person by compromise, arbitration, or otherwise; and release, in whole or in part, any claim
5582 belonging to the estate to the extent that the claim is uncollectible;

5583 (t) pay taxes, assessments, compensation of the conservator, and other expenses
5584 incurred in the collection, care, administration, and protection of the estate;

5585 (u) allocate items of income or expense to either estate income or principal, as
5586 provided by law, including creation of reserves out of income for depreciation, obsolescence,
5587 or amortization, or for depletion in mineral or timber properties;

5588 (v) pay any sum distributable to a protected person or dependent without liability to the
5589 conservator, by paying the sum to the distributee or by paying the sum for the use of the
5590 distributee either to the distributee's guardian, or if none, to a relative or other person with
5591 custody of the person;

5592 (w) employ persons, including attorneys, auditors, investment advisors, or agents, even
5593 though they are associated with the conservator, to advise or assist in the performance of
5594 administrative duties; act upon their recommendation without independent investigation; and
5595 instead of acting personally, employ one or more agents to perform any act of administration,
5596 whether or not discretionary;

5597 (x) prosecute or defend actions, claims, or proceedings in any jurisdiction for the
5598 protection of estate assets and of the conservator in the performance of the conservator's duties;

5599 (y) act as a qualified beneficiary of any trust in which the protected person is a
5600 qualified beneficiary; and

5601 (z) execute and deliver all instruments which will accomplish or facilitate the exercise

5602 of the powers vested in the conservator.

5603 Section 52. Section **76-5-303** is amended to read:

5604 **76-5-303. Custodial interference.**

5605 (1) As used in this section:

5606 (a) "Child" means a person under the age of 18.

5607 (b) "Custody" means court-ordered physical custody entered by a court of competent
5608 jurisdiction.

5609 (c) "Visitation" means court-ordered parent-time or visitation entered by a court of
5610 competent jurisdiction.

5611 (2) (a) A person who is entitled to custody of a child is guilty of custodial interference
5612 if, during a period of time when another person is entitled to visitation of the child, the person
5613 takes, entices, conceals, detains, or withholds the child from the person entitled to visitation of
5614 the child, with the intent to interfere with the visitation of the child.

5615 (b) A person who is entitled to visitation of a child is guilty of custodial interference if,
5616 during a period of time when the person is not entitled to visitation of the child, the person
5617 takes, entices, conceals, detains, or withholds the child from a person who is entitled to custody
5618 of the child, with the intent to interfere with the custody of the child.

5619 (3) Except as provided in Subsection (4) or (5), custodial interference is a class B
5620 misdemeanor.

5621 (4) Except as provided in Subsection (5), the actor described in Subsection (2) is guilty
5622 of a class A misdemeanor if the actor:

5623 (a) commits custodial interference; and

5624 (b) has been convicted of custodial interference at least twice in the two-year period
5625 immediately preceding the day on which the commission of custodial interference described in
5626 Subsection (4)(a) occurs.

5627 (5) Custodial interference is a felony of the third degree if, during the course of the
5628 custodial interference, the actor described in Subsection (2) removes, causes the removal, or
5629 directs the removal of the child from the state.

5630 (6) In addition to the affirmative defenses described in Section 76-5-305, it is an
5631 affirmative defense to the crime of custodial interference that:

5632 (a) the action is consented to by the person whose custody or visitation of the child was
5633 interfered with; or

5634 (b) (i) the action is based on a reasonable belief that the action is necessary to protect a
5635 child from abuse, including sexual abuse; and

5636 (ii) before engaging in the action, the person reports the person's intention to engage in
5637 the action, and the basis for the belief described in Subsection (6)(b)(i), to the Division of
5638 Child and Family Services or law enforcement.

5639 (7) In addition to the other penalties described in this section, a person who is
5640 convicted of custodial interference is subject to the driver license suspension provisions of
5641 Subsection 53-3-220(1)(a)[~~(xviii)~~](xvii).

5642 Section 53. Section 78A-6-105 is amended to read:

5643 **78A-6-105. Definitions.**

5644 As used in this chapter:

5645 (1) (a) "Abuse" means:

5646 (i) nonaccidental harm of a child;

5647 (ii) threatened harm of a child;

5648 (iii) sexual exploitation;

5649 (iv) sexual abuse; or

5650 (v) human trafficking of a child in violation of Section 76-5-308.5.

5651 (b) that a child's natural parent:

5652 (i) intentionally, knowingly, or recklessly causes the death of another parent of the
5653 child;

5654 (ii) is identified by a law enforcement agency as the primary suspect in an investigation
5655 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

5656 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or
5657 recklessly causing the death of another parent of the child.

- 5658 (c) "Abuse" does not include:
- 5659 (i) reasonable discipline or management of a child, including withholding privileges;
- 5660 (ii) conduct described in Section 76-2-401; or
- 5661 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 5662 (A) in self-defense;
- 5663 (B) in defense of others;
- 5664 (C) to protect the child; or
- 5665 (D) to remove a weapon in the possession of a child for any of the reasons described in
- 5666 Subsections (1)(b)(iii)(A) through (C).
- 5667 (2) "Abused child" means a child who has been subjected to abuse.
- 5668 (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts
- 5669 alleged in the petition have been proved. A finding of not competent to proceed pursuant to
- 5670 Section 78A-6-1302 is not an adjudication.
- 5671 (4) "Adult" means a person 18 years of age or over, except that a person 18 years or
- 5672 over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall
- 5673 be referred to as a minor.
- 5674 (5) "Board" means the Board of Juvenile Court Judges.
- 5675 (6) "Child" means a person under 18 years of age.
- 5676 (7) "Child placement agency" means:
- 5677 (a) a private agency licensed to receive a child for placement or adoption under this
- 5678 code; or
- 5679 (b) a private agency that receives a child for placement or adoption in another state,
- 5680 which agency is licensed or approved where such license or approval is required by law.
- 5681 (8) "Clandestine laboratory operation" means the same as that term is defined in
- 5682 Section 58-37d-3.
- 5683 (9) "Commit" means, unless specified otherwise:
- 5684 (a) with respect to a child, to transfer legal custody; and
- 5685 (b) with respect to a minor who is at least 18 years of age, to transfer custody.

- 5686 (10) "Court" means the juvenile court.
- 5687 (11) "Dependent child" includes a child who is homeless or without proper care
5688 through no fault of the child's parent, guardian, or custodian.
- 5689 (12) "Deprivation of custody" means transfer of legal custody by the court from a
5690 parent or the parents or a previous legal custodian to another person, agency, or institution.
- 5691 (13) "Detention" means home detention and secure detention as defined in Section
5692 [62A-7-101](#) for the temporary care of a minor who requires secure custody in a physically
5693 restricting facility:
- 5694 (a) pending court disposition or transfer to another jurisdiction; or
5695 (b) while under the continuing jurisdiction of the court.
- 5696 (14) "Division" means the Division of Child and Family Services.
- 5697 (15) "Formal referral" means a written report from a peace officer or other person
5698 informing the court that a minor is or appears to be within the court's jurisdiction and that a
5699 petition may be filed.
- 5700 (16) "Group rehabilitation therapy" means psychological and social counseling of one
5701 or more persons in the group, depending upon the recommendation of the therapist.
- 5702 (17) "Guardianship of the person" includes the authority to consent to:
- 5703 (a) marriage;
5704 (b) enlistment in the armed forces;
5705 (c) major medical, surgical, or psychiatric treatment; or
5706 (d) legal custody, if legal custody is not vested in another person, agency, or institution.
- 5707 (18) "Habitual truant" means the same as that term is defined in Section [53A-11-101](#).
- 5708 (19) "Harm" means:
- 5709 (a) physical or developmental injury or damage;
5710 (b) emotional damage that results in a serious impairment in the child's growth,
5711 development, behavior, or psychological functioning;
- 5712 (c) sexual abuse; or
5713 (d) sexual exploitation.

5714 (20) (a) "Incest" means engaging in sexual intercourse with a person whom the
5715 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
5716 nephew, niece, or first cousin.

5717 (b) The relationships described in Subsection (20)(a) include:

5718 (i) blood relationships of the whole or half blood, without regard to legitimacy;

5719 (ii) relationships of parent and child by adoption; and

5720 (iii) relationships of stepparent and stepchild while the marriage creating the
5721 relationship of a stepparent and stepchild exists.

5722 (21) "Intellectual disability" means:

5723 (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or
5724 below on an individually administered IQ test, for infants, a clinical judgment of significantly
5725 subaverage intellectual functioning;

5726 (b) concurrent deficits or impairments in present adaptive functioning, the person's
5727 effectiveness in meeting the standards expected for his or her age by the person's cultural
5728 group, in at least two of the following areas: communication, self-care, home living,
5729 social/interpersonal skills, use of community resources, self-direction, functional academic
5730 skills, work, leisure, health, and safety; and

5731 (c) the onset is before the person reaches the age of 18 years.

5732 (22) "Legal custody" means a relationship embodying the following rights and duties:

5733 (a) the right to physical custody of the minor;

5734 (b) the right and duty to protect, train, and discipline the minor;

5735 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
5736 medical care;

5737 (d) the right to determine where and with whom the minor shall live; and

5738 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

5739 (23) "Mental disorder" means a serious emotional and mental disturbance that severely
5740 limits a minor's development and welfare over a significant period of time.

5741 (24) "Minor" means:

- 5742 (a) a child; or
- 5743 (b) a person who is:
- 5744 (i) at least 18 years of age and younger than 21 years of age; and
- 5745 (ii) under the jurisdiction of the juvenile court.
- 5746 (25) "Molestation" means that a person, with the intent to arouse or gratify the sexual
- 5747 desire of any person:
- 5748 (a) touches the anus or any part of the genitals of a child;
- 5749 (b) takes indecent liberties with a child; or
- 5750 (c) causes a child to take indecent liberties with the perpetrator or another.
- 5751 (26) "Natural parent" means a minor's biological or adoptive parent, and includes the
- 5752 minor's noncustodial parent.
- 5753 (27) (a) "Neglect" means action or inaction causing:
- 5754 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
- 5755 Relinquishment of a Newborn Child;
- 5756 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
- 5757 guardian, or custodian;
- 5758 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
- 5759 subsistence, education, or medical care, or any other care necessary for the child's health,
- 5760 safety, morals, or well-being; or
- 5761 (iv) a child to be at risk of being neglected or abused because another child in the same
- 5762 home is neglected or abused.
- 5763 (b) The aspect of neglect relating to education, described in Subsection (27)(a)(iii),
- 5764 means that, after receiving a notice of compulsory education violation under Section
- 5765 [53A-11-101.5](#), or notice that a parent or guardian has failed to cooperate with school
- 5766 authorities in a reasonable manner as required under Subsection [53A-11-101.7\(5\)\(a\)](#), the parent
- 5767 or guardian fails to make a good faith effort to ensure that the child receives an appropriate
- 5768 education.
- 5769 (c) A parent or guardian legitimately practicing religious beliefs and who, for that

5770 reason, does not provide specified medical treatment for a child, is not guilty of neglect.

5771 (d) (i) Notwithstanding Subsection (27)(a), a health care decision made for a child by
5772 the child's parent or guardian does not constitute neglect unless the state or other party to the
5773 proceeding shows, by clear and convincing evidence, that the health care decision is not
5774 reasonable and informed.

5775 (ii) Nothing in Subsection (27)(d)(i) may prohibit a parent or guardian from exercising
5776 the right to obtain a second health care opinion and from pursuing care and treatment pursuant
5777 to the second health care opinion, as described in Section [78A-6-301.5](#).

5778 (28) "Neglected child" means a child who has been subjected to neglect.

5779 (29) "Nonjudicial adjustment" means closure of the case by the assigned probation
5780 officer without judicial determination upon the consent in writing of:

5781 (a) the assigned probation officer; and

5782 (b) (i) the minor; or

5783 (ii) the minor and the minor's parent, legal guardian, or custodian.

5784 (30) "Not competent to proceed" means that a minor, due to a mental disorder,
5785 intellectual disability, or related condition as defined, lacks the ability to:

5786 (a) understand the nature of the proceedings against them or of the potential disposition
5787 for the offense charged; or

5788 (b) consult with counsel and participate in the proceedings against them with a
5789 reasonable degree of rational understanding.

5790 (31) "Physical abuse" means abuse that results in physical injury or damage to a child.

5791 (32) "Probation" means a legal status created by court order following an adjudication
5792 on the ground of a violation of law or under Section [78A-6-103](#), whereby the minor is
5793 permitted to remain in the minor's home under prescribed conditions and under supervision by
5794 the probation department or other agency designated by the court, subject to return to the court
5795 for violation of any of the conditions prescribed.

5796 (33) "Protective supervision" means a legal status created by court order following an
5797 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to

5798 remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or
5799 dependency is provided by the probation department or other agency designated by the court.

5800 (34) "Related condition" means a condition closely related to intellectual disability in
5801 accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah
5802 Administrative Code.

5803 (35) (a) "Residual parental rights and duties" means those rights and duties remaining
5804 with the parent after legal custody or guardianship, or both, have been vested in another person
5805 or agency, including:

5806 (i) the responsibility for support;

5807 (ii) the right to consent to adoption;

5808 (iii) the right to determine the child's religious affiliation; and

5809 (iv) the right to reasonable parent-time unless restricted by the court.

5810 (b) If no guardian has been appointed, "residual parental rights and duties" also include
5811 the right to consent to:

5812 (i) marriage;

5813 (ii) enlistment; and

5814 (iii) major medical, surgical, or psychiatric treatment.

5815 (36) "Secure facility" means any facility operated by or under contract with the
5816 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
5817 youth offenders committed to the division for custody and rehabilitation.

5818 (37) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
5819 child.

5820 (38) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
5821 child.

5822 (39) "Sexual abuse" means:

5823 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
5824 adult directed towards a child;

5825 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation

5826 committed by a child towards another child if:

5827 (i) there is an indication of force or coercion;

5828 (ii) the children are related, as [~~defined in Subsections (20)(a) and (20)(b)] described in
5829 Subsection (20);~~

5830 (iii) there have been repeated incidents of sexual contact between the two children,
5831 unless the children are 14 years of age or older; or

5832 (iv) there is a disparity in chronological age of four or more years between the two
5833 children; or

5834 (c) engaging in any conduct with a child that would constitute an offense under any of
5835 the following, regardless of whether the person who engages in the conduct is actually charged
5836 with, or convicted of, the offense:

5837 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
5838 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

5839 (ii) child bigamy, Section 76-7-101.5;

5840 (iii) incest, Section 76-7-102;

5841 (iv) lewdness, Section 76-9-702;

5842 (v) sexual battery, Section 76-9-702.1;

5843 (vi) lewdness involving a child, Section 76-9-702.5; or

5844 (vii) voyeurism, Section 76-9-702.7.

5845 (40) "Sexual exploitation" means knowingly:

5846 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

5847 (i) pose in the nude for the purpose of sexual arousal of any person; or

5848 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
5849 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

5850 (b) displaying, distributing, possessing for the purpose of distribution, or selling
5851 material depicting a child:

5852 (i) in the nude, for the purpose of sexual arousal of any person; or

5853 (ii) engaging in sexual or simulated sexual conduct; or

5854 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
5855 sexual exploitation of a minor, regardless of whether the person who engages in the conduct is
5856 actually charged with, or convicted of, the offense.

5857 (41) "Shelter" means the temporary care of a child in a physically unrestricted facility
5858 pending court disposition or transfer to another jurisdiction.

5859 (42) "State supervision" means a disposition that provides a more intensive level of
5860 intervention than standard probation but is less intensive or restrictive than a community
5861 placement with the Division of Juvenile Justice Services.

5862 (43) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
5863 substances.

5864 (44) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

5865 (45) "Supported" means the same as that term is defined in Section 62A-4a-101.

5866 (46) "Termination of parental rights" means the permanent elimination of all parental
5867 rights and duties, including residual parental rights and duties, by court order.

5868 (47) "Therapist" means:

5869 (a) a person employed by a state division or agency for the purpose of conducting
5870 psychological treatment and counseling of a minor in its custody; or

5871 (b) any other person licensed or approved by the state for the purpose of conducting
5872 psychological treatment and counseling.

5873 (48) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

5874 (49) "Without merit" means the same as that term is defined in Section 62A-4a-101.

5875 **Section 54. Repealer.**

5876 This bill repeals:

5877 Section 59-2-1116 (Section not in effect), **Definitions -- Exemption for property**
5878 **leased to government entities -- Application process -- Rulemaking authority.**