

EDUCATION ENTITY AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill provides a home-based education entity and micro-education entity with certain similar duties, requirements, waivers, and rights as private and charter schools.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a county and municipality to consider a home-based education entity and micro-education entity as a permitted use in all zoning districts within a county and municipality;
- ▶ identifies the occupancy requirements to which a micro-education entity is subject;
- ▶ requires a local school board to excuse a student who attends a home-based education entity or micro-education entity under certain circumstances;
- ▶ provides that an instructor of a school-age child who attends a home-based education entity or micro-education entity is solely responsible for instruction, materials, and evaluation;
- ▶ prohibits a local school board from requiring a home-based education entity or micro-education entity to provide teaching credentials, submit to inspection, and conduct testing;
- ▶ prevents government entities from regulating home-based education entity and micro-education entity food preparation and distribution under certain circumstances;
- ▶ allows a student who attends a home-based education entity or micro-education entity to participate in extracurricular activities in a public school;
- ▶ exempts a student who attends a home-based education entity or micro-education entity from immunization requirements; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **10-9a-103**, as last amended by Laws of Utah 2023, Chapters 16, 327 and 478

39 **10-9a-305**, as last amended by Laws of Utah 2023, Chapter 16

40 **10-9a-529**, as last amended by Laws of Utah 2023, Chapter 16

41 **17-27a-103**, as last amended by Laws of Utah 2023, Chapters 15, 327 and 478

42 **17-27a-305**, as last amended by Laws of Utah 2023, Chapter 15

43 **32B-1-102**, as last amended by Laws of Utah 2023, Chapters 328, 371 and 400

44 **53G-6-201**, as last amended by Laws of Utah 2021, Chapters 113, 261 and 427

45 **53G-6-204**, as last amended by Laws of Utah 2023, Chapter 162

46 **53G-6-702**, as last amended by Laws of Utah 2020, Chapter 408

47 **53G-6-703**, as last amended by Laws of Utah 2023, Chapter 340

48 **53G-6-706**, as last amended by Laws of Utah 2019, Chapter 293

49 **53G-9-301**, as last amended by Laws of Utah 2023, Chapter 328

50 ENACTS:

51 **53G-6-212**, Utah Code Annotated 1953



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

54 Section 1. Section **10-9a-103** is amended to read:

55 **10-9a-103. Definitions.**

56 As used in this chapter:

57 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
58 detached from a primary single-family dwelling and contained on one lot.

59 (2) "Adversely affected party" means a person other than a land use applicant who:

60 (a) owns real property adjoining the property that is the subject of a land use
61 application or land use decision; or

62 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
63 general community as a result of the land use decision.

64 (3) "Affected entity" means a county, municipality, special district, special service
65 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
66 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
67 public utility, property owner, property owners association, or the Department of
68 Transportation, if:

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

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

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

76 (4) "Affected owner" means the owner of real property that is:

77 (a) a single project;

78 (b) the subject of a land use approval that sponsors of a referendum timely challenged
79 in accordance with Subsection 20A-7-601(6); and

80 (c) determined to be legally referable under Section 20A-7-602.8.

81 (5) "Appeal authority" means the person, board, commission, agency, or other body
82 designated by ordinance to decide an appeal of a decision of a land use application or a
83 variance.

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

87 (7) (a) "Charter school" means:

88 (i) an operating charter school;

89 (ii) a charter school applicant that a charter school authorizer approves in accordance
90 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

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

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

94 (8) "Conditional use" means a land use that, because of the unique characteristics or

95 potential impact of the land use on the municipality, surrounding neighbors, or adjacent land
96 uses, may not be compatible in some areas or may be compatible only if certain conditions are
97 required that mitigate or eliminate the detrimental impacts.

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

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

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

102 (10) "Culinary water authority" means the department, agency, or public entity with
103 responsibility to review and approve the feasibility of the culinary water system and sources for
104 the subject property.

105 (11) "Development activity" means:

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

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

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

112 (12) (a) "Development agreement" means a written agreement or amendment to a
113 written agreement between a municipality and one or more parties that regulates or controls the
114 use or development of a specific area of land.

115 (b) "Development agreement" does not include an improvement completion assurance.

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

119 (b) "Disability" does not include current illegal use of, or addiction to, any federally
120 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
121 802.

122 (14) "Educational facility":

123 (a) means:

124 (i) a school district's building at which pupils assemble to receive instruction in a
125 program for any combination of grades from preschool through grade 12, including

- 126 kindergarten and a program for children with disabilities;
- 127 (ii) a structure or facility:
- 128 (A) located on the same property as a building described in Subsection (14)(a)(i); and
- 129 (B) used in support of the use of that building; and
- 130 (iii) a building to provide office and related space to a school district's administrative
- 131 personnel; and
- 132 (b) does not include:
- 133 (i) land or a structure, including land or a structure for inventory storage, equipment
- 134 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
- 135 (A) not located on the same property as a building described in Subsection (14)(a)(i);
- 136 and
- 137 (B) used in support of the purposes of a building described in Subsection (14)(a)(i); or
- 138 (ii) a therapeutic school.
- 139 (15) "Fire authority" means the department, agency, or public entity with responsibility
- 140 to review and approve the feasibility of fire protection and suppression services for the subject
- 141 property.
- 142 (16) "Flood plain" means land that:
- 143 (a) is within the 100-year flood plain designated by the Federal Emergency
- 144 Management Agency; or
- 145 (b) has not been studied or designated by the Federal Emergency Management Agency
- 146 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
- 147 the land has characteristics that are similar to those of a 100-year flood plain designated by the
- 148 Federal Emergency Management Agency.
- 149 (17) "General plan" means a document that a municipality adopts that sets forth general
- 150 guidelines for proposed future development of the land within the municipality.
- 151 (18) "Geologic hazard" means:
- 152 (a) a surface fault rupture;
- 153 (b) shallow groundwater;
- 154 (c) liquefaction;
- 155 (d) a landslide;
- 156 (e) a debris flow;

- 157 (f) unstable soil;
- 158 (g) a rock fall; or
- 159 (h) any other geologic condition that presents a risk:
- 160 (i) to life;
- 161 (ii) of substantial loss of real property; or
- 162 (iii) of substantial damage to real property.
- 163 (19) "Historic preservation authority" means a person, board, commission, or other
- 164 body designated by a legislative body to:
- 165 (a) recommend land use regulations to preserve local historic districts or areas; and
- 166 (b) administer local historic preservation land use regulations within a local historic
- 167 district or area.
- 168 (20) "Home-based education entity" means the same as that term is defined in Section
- 169 53G-6-201.
- 170 [~~(20)~~] (21) "Hookup fee" means a fee for the installation and inspection of any pipe,
- 171 line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or
- 172 other utility system.
- 173 [~~(21)~~] (22) "Identical plans" means building plans submitted to a municipality that:
- 174 (a) are clearly marked as "identical plans";
- 175 (b) are substantially identical to building plans that were previously submitted to and
- 176 reviewed and approved by the municipality; and
- 177 (c) describe a building that:
- 178 (i) is located on land zoned the same as the land on which the building described in the
- 179 previously approved plans is located;
- 180 (ii) is subject to the same geological and meteorological conditions and the same law
- 181 as the building described in the previously approved plans;
- 182 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 183 and approved by the municipality; and
- 184 (iv) does not require any additional engineering or analysis.
- 185 [~~(22)~~] (23) "Impact fee" means a payment of money imposed under Title 11, Chapter
- 186 36a, Impact Fees Act.
- 187 [~~(23)~~] (24) "Improvement completion assurance" means a surety bond, letter of credit,

188 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
189 by a municipality to guaranty the proper completion of landscaping or an infrastructure
190 improvement required as a condition precedent to:

191 (a) recording a subdivision plat; or

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

193 ~~[(24)]~~ (25) "Improvement warranty" means an applicant's unconditional warranty that
194 the applicant's installed and accepted landscaping or infrastructure improvement:

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

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

199 ~~[(25)]~~ (26) "Improvement warranty period" means a period:

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

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

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

205 (ii) has substantial evidence, on record:

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

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

209 ~~[(26)]~~ (27) "Infrastructure improvement" means permanent infrastructure that is
210 essential for the public health and safety or that:

211 (a) is required for human occupation; and

212 (b) an applicant must install:

213 (i) in accordance with published installation and inspection specifications for public
214 improvements; and

215 (ii) whether the improvement is public or private, as a condition of:

216 (A) recording a subdivision plat;

217 (B) obtaining a building permit; or

218 (C) development of a commercial, industrial, mixed use, condominium, or multifamily

- 219 project.
- 220 ~~[(27)]~~ (28) "Internal lot restriction" means a platted note, platted demarcation, or
221 platted designation that:
- 222 (a) runs with the land; and
- 223 (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on
224 the plat; or
- 225 (ii) designates a development condition that is enclosed within the perimeter of a lot
226 described on the plat.
- 227 ~~[(28)]~~ (29) "Land use applicant" means a property owner, or the property owner's
228 designee, who submits a land use application regarding the property owner's land.
- 229 ~~[(29)]~~ (30) "Land use application":
- 230 (a) means an application that is:
- 231 (i) required by a municipality; and
- 232 (ii) submitted by a land use applicant to obtain a land use decision; and
- 233 (b) does not mean an application to enact, amend, or repeal a land use regulation.
- 234 ~~[(30)]~~ (31) "Land use authority" means:
- 235 (a) a person, board, commission, agency, or body, including the local legislative body,
236 designated by the local legislative body to act upon a land use application; or
- 237 (b) if the local legislative body has not designated a person, board, commission,
238 agency, or body, the local legislative body.
- 239 ~~[(31)]~~ (32) "Land use decision" means an administrative decision of a land use
240 authority or appeal authority regarding:
- 241 (a) a land use permit; or
- 242 (b) a land use application.
- 243 ~~[(32)]~~ (33) "Land use permit" means a permit issued by a land use authority.
- 244 ~~[(33)]~~ (34) "Land use regulation":
- 245 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,
246 specification, fee, or rule that governs the use or development of land;
- 247 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 248 and
- 249 (c) does not include:

250 (i) a land use decision of the legislative body acting as the land use authority, even if
251 the decision is expressed in a resolution or ordinance; or

252 (ii) a temporary revision to an engineering specification that does not materially:

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

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

256 [~~34~~] (35) "Legislative body" means the municipal council.

257 [~~35~~] (36) "Local historic district or area" means a geographically definable area that:

258 (a) contains any combination of buildings, structures, sites, objects, landscape features,
259 archeological sites, or works of art that contribute to the historic preservation goals of a
260 legislative body; and

261 (b) is subject to land use regulations to preserve the historic significance of the local
262 historic district or area.

263 [~~36~~] (37) "Lot" means a tract of land, regardless of any label, that is created by and
264 shown on a subdivision plat that has been recorded in the office of the county recorder.

265 [~~37~~] (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between
266 adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

267 (i) whether or not the lots are located in the same subdivision; and

268 (ii) with the consent of the owners of record.

269 (b) "Lot line adjustment" does not mean a new boundary line that:

270 (i) creates an additional lot; or

271 (ii) constitutes a subdivision or a subdivision amendment.

272 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
273 Department of Transportation.

274 [~~38~~] (39) "Major transit investment corridor" means public transit service that uses or
275 occupies:

276 (a) public transit rail right-of-way;

277 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

278 or

279 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
280 municipality or county and:

- 281 (i) a public transit district as defined in Section 17B-2a-802; or
- 282 (ii) an eligible political subdivision as defined in Section 59-12-2219.
- 283 (40) "Micro-education entity" means the same as that term is defined in Section
- 284 53G-6-201.
- 285 [~~(39)~~] (41) "Moderate income housing" means housing occupied or reserved for
- 286 occupancy by households with a gross household income equal to or less than 80% of the
- 287 median gross income for households of the same size in the county in which the city is located.
- 288 [~~(40)~~] (42) "Municipal utility easement" means an easement that:
- 289 (a) is created or depicted on a plat recorded in a county recorder's office and is
- 290 described as a municipal utility easement granted for public use;
- 291 (b) is not a protected utility easement or a public utility easement as defined in Section
- 292 54-3-27;
- 293 (c) the municipality or the municipality's affiliated governmental entity uses and
- 294 occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm
- 295 water, or communications or data lines;
- 296 (d) is used or occupied with the consent of the municipality in accordance with an
- 297 authorized franchise or other agreement;
- 298 (e) (i) is used or occupied by a specified public utility in accordance with an authorized
- 299 franchise or other agreement; and
- 300 (ii) is located in a utility easement granted for public use; or
- 301 (f) is described in Section 10-9a-529 and is used by a specified public utility.
- 302 [~~(41)~~] (43) "Nominal fee" means a fee that reasonably reimburses a municipality only
- 303 for time spent and expenses incurred in:
- 304 (a) verifying that building plans are identical plans; and
- 305 (b) reviewing and approving those minor aspects of identical plans that differ from the
- 306 previously reviewed and approved building plans.
- 307 [~~(42)~~] (44) "Noncomplying structure" means a structure that:
- 308 (a) legally existed before the structure's current land use designation; and
- 309 (b) because of one or more subsequent land use ordinance changes, does not conform
- 310 to the setback, height restrictions, or other regulations, excluding those regulations, which
- 311 govern the use of land.

312 ~~[(43)]~~ (45) "Nonconforming use" means a use of land that:

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

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

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

318 ~~[(44)]~~ (46) "Official map" means a map drawn by municipal authorities and recorded in
319 a county recorder's office that:

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

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

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

326 ~~[(45)]~~ (47) "Parcel" means any real property that is not a lot.

327 ~~[(46)]~~ (48) (a) "Parcel boundary adjustment" means a recorded agreement between
328 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary
329 line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

330 (i) none of the property identified in the agreement is a lot; or

331 (ii) the adjustment is to the boundaries of a single person's parcels.

332 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary
333 line that:

334 (i) creates an additional parcel; or

335 (ii) constitutes a subdivision.

336 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by
337 the Department of Transportation.

338 ~~[(47)]~~ (49) "Person" means an individual, corporation, partnership, organization,
339 association, trust, governmental agency, or any other legal entity.

340 ~~[(48)]~~ (50) "Plan for moderate income housing" means a written document adopted by
341 a municipality's legislative body that includes:

342 (a) an estimate of the existing supply of moderate income housing located within the

343 municipality;

344 (b) an estimate of the need for moderate income housing in the municipality for the
345 next five years;

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

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

349 (e) a description of the municipality's program to encourage an adequate supply of
350 moderate income housing.

351 ~~[(49)]~~ (51) "Plat" means an instrument subdividing property into lots as depicted on a
352 map or other graphical representation of lands that a licensed professional land surveyor makes
353 and prepares in accordance with Section 10-9a-603 or 57-8-13.

354 ~~[(50)]~~ (52) "Potential geologic hazard area" means an area that:

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

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

361 ~~[(51)]~~ (53) "Public agency" means:

362 (a) the federal government;

363 (b) the state;

364 (c) a county, municipality, school district, special district, special service district, or
365 other political subdivision of the state; or

366 (d) a charter school.

367 ~~[(52)]~~ (54) "Public hearing" means a hearing at which members of the public are
368 provided a reasonable opportunity to comment on the subject of the hearing.

369 ~~[(53)]~~ (55) "Public meeting" means a meeting that is required to be open to the public
370 under Title 52, Chapter 4, Open and Public Meetings Act.

371 ~~[(54)]~~ (56) "Public street" means a public right-of-way, including a public highway,
372 public avenue, public boulevard, public parkway, public road, public lane, public alley, public
373 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation

374 easement, or other public way.

375 ~~[(55)]~~ (57) "Receiving zone" means an area of a municipality that the municipality
376 designates, by ordinance, as an area in which an owner of land may receive a transferable
377 development right.

378 ~~[(56)]~~ (58) "Record of survey map" means a map of a survey of land prepared in
379 accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

380 ~~[(57)]~~ (59) "Residential facility for persons with a disability" means a residence:

381 (a) in which more than one person with a disability resides; and
382 (b) which is licensed or certified by the Department of Health and Human Services
383 under:

384 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

385 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

386 ~~[(58)]~~ (60) "Residential roadway" means a public local residential road that:

387 (a) will serve primarily to provide access to adjacent primarily residential areas and
388 property;

389 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;

390 (c) is not identified as a supplementary to a collector or other higher system classified
391 street in an approved municipal street or transportation master plan;

392 (d) has a posted speed limit of 25 miles per hour or less;

393 (e) does not have higher traffic volumes resulting from connecting previously separated
394 areas of the municipal road network;

395 (f) cannot have a primary access, but can have a secondary access, and does not abut
396 lots intended for high volume traffic or community centers, including schools, recreation
397 centers, sports complexes, or libraries; and

398 (g) primarily serves traffic within a neighborhood or limited residential area and is not
399 necessarily continuous through several residential areas.

400 ~~[(59)]~~ (61) "Rules of order and procedure" means a set of rules that govern and
401 prescribe in a public meeting:

402 (a) parliamentary order and procedure;

403 (b) ethical behavior; and

404 (c) civil discourse.

405 ~~[(60)]~~ (62) "Sanitary sewer authority" means the department, agency, or public entity
406 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
407 wastewater systems.

408 ~~[(61)]~~ (63) "Sending zone" means an area of a municipality that the municipality
409 designates, by ordinance, as an area from which an owner of land may transfer a transferable
410 development right.

411 ~~[(62)]~~ (64) "Special district" means an entity under Title 17B, Limited Purpose Local
412 Government Entities - Special Districts, and any other governmental or quasi-governmental
413 entity that is not a county, municipality, school district, or the state.

414 ~~[(63)]~~ (65) "Specified public agency" means:

- 415 (a) the state;
- 416 (b) a school district; or
- 417 (c) a charter school.

418 ~~[(64)]~~ (66) "Specified public utility" means an electrical corporation, gas corporation,
419 or telephone corporation, as those terms are defined in Section 54-2-1.

420 ~~[(65)]~~ (67) "State" includes any department, division, or agency of the state.

421 ~~[(66)]~~ (68) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
422 to be divided into two or more lots or other division of land for the purpose, whether
423 immediate or future, for offer, sale, lease, or development either on the installment plan or
424 upon any and all other plans, terms, and conditions.

425 (b) "Subdivision" includes:

426 (i) the division or development of land, whether by deed, metes and bounds
427 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
428 the division includes all or a portion of a parcel or lot; and

429 (ii) except as provided in Subsection ~~[(65)(c)]~~ (68)(c), divisions of land for residential
430 and nonresidential uses, including land used or to be used for commercial, agricultural, and
431 industrial purposes.

432 (c) "Subdivision" does not include:

433 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
434 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
435 neither the resulting combined parcel nor the parcel remaining from the division or partition

- 436 violates an applicable land use ordinance;
- 437 (ii) a boundary line agreement recorded with the county recorder's office between
- 438 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
- 439 10-9a-524 if no new parcel is created;
- 440 (iii) a recorded document, executed by the owner of record:
- 441 (A) revising the legal descriptions of multiple parcels into one legal description
- 442 encompassing all such parcels; or
- 443 (B) joining a lot to a parcel;
- 444 (iv) a boundary line agreement between owners of adjoining subdivided properties
- 445 adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:
- 446 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 447 (B) the adjustment will not violate any applicable land use ordinance;
- 448 (v) a bona fide division of land by deed or other instrument if the deed or other
- 449 instrument states in writing that the division:
- 450 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 451 (B) does not confer any land use approvals; and
- 452 (C) has not been approved by the land use authority;
- 453 (vi) a parcel boundary adjustment;
- 454 (vii) a lot line adjustment;
- 455 (viii) a road, street, or highway dedication plat;
- 456 (ix) a deed or easement for a road, street, or highway purpose; or
- 457 (x) any other division of land authorized by law.
- 458 ~~[(67)]~~ (69) (a) "Subdivision amendment" means an amendment to a recorded
- 459 subdivision in accordance with Section 10-9a-608 that:
- 460 (i) vacates all or a portion of the subdivision;
- 461 (ii) alters the outside boundary of the subdivision;
- 462 (iii) changes the number of lots within the subdivision;
- 463 (iv) alters a public right-of-way, a public easement, or public infrastructure within the
- 464 subdivision; or
- 465 (v) alters a common area or other common amenity within the subdivision.
- 466 (b) "Subdivision amendment" does not include a lot line adjustment, between a single

467 lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

468 [~~(68)~~] (70) "Substantial evidence" means evidence that:

469 (a) is beyond a scintilla; and

470 (b) a reasonable mind would accept as adequate to support a conclusion.

471 [~~(69)~~] (71) "Suspect soil" means soil that has:

472 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
473 3% swell potential;

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

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

477 [~~(70)~~] (72) "Therapeutic school" means a residential group living facility:

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

479 (i) the owner of the facility; or

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

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

482 (i) at home;

483 (ii) in a public school; or

484 (iii) in a nonresidential private school; and

485 (c) that offers:

486 (i) room and board; and

487 (ii) an academic education integrated with:

488 (A) specialized structure and supervision; or

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

491 [~~(71)~~] (73) "Transferable development right" means a right to develop and use land that
492 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
493 land use rights from a designated sending zone to a designated receiving zone.

494 [~~(72)~~] (74) "Unincorporated" means the area outside of the incorporated area of a city
495 or town.

496 [~~(73)~~] (75) "Water interest" means any right to the beneficial use of water, including:

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

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

499 (i) a contract; or

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

501 [~~74~~] (76) "Zoning map" means a map, adopted as part of a land use ordinance, that
502 depicts land use zones, overlays, or districts.

503 Section 2. Section **10-9a-305** is amended to read:

504 **10-9a-305. Other entities required to conform to municipality's land use**
505 **ordinances -- Exceptions -- School districts, charter schools, home-based education**
506 **entities, and micro-education entities -- Submission of development plan and schedule.**

507 (1) (a) Each county, municipality, school district, charter school, special district,
508 special service district, and political subdivision of the state shall conform to any applicable
509 land use ordinance of any municipality when installing, constructing, operating, or otherwise
510 using any area, land, or building situated within that municipality.

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

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

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

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

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

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

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

528 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an

529 obligation to comply with a requirement of an applicable building or safety code to which it is
530 otherwise obligated to comply.

531 (3) A municipality may not:

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

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

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

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

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

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

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

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

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

557 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate
558 the siting of a new school with the municipality in which the school is to be located, to:

559 (a) avoid or mitigate existing and potential traffic hazards, including consideration of

560 the impacts between the new school and future highways; and

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

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

563 (a) provide a walk-through of school construction at no cost and at a time convenient to

564 the district or charter school; and

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

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

567 (i) a municipal building inspector;

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

569 district; or

570 (B) for a charter school, a school district building inspector from the school district in

571 which the charter school is located; or

572 (iii) an independent, certified building inspector who is[:]

573 [~~(A)~~] not an employee of the contractor[:]; licensed to perform the inspection that the

574 inspector is requested to perform, and

575 [~~(B)~~] approved by[:]

576 [~~(B)~~] a municipal building inspector[:]; or:

577 [~~(B)~~] (A) [~~(Aa)~~] for a school district, a school district building inspector from that

578 school district; or

579 [~~(Bb)~~] (B) for a charter school, a school district building inspector from the school

580 district in which the charter school is located[; ~~and~~].

581 [~~(C) licensed to perform the inspection that the inspector is requested to perform.~~]

582 (b) The approval under Subsection [~~(6)(a)(iii)(B)~~] (6)(a)(iii) may not be unreasonably

583 withheld.

584 (c) If a school district or charter school uses a school district or independent building

585 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to

586 the state superintendent of public instruction and municipal building official, on a monthly

587 basis during construction of the school building, a copy of each inspection certificate regarding

588 the school building.

589 (7) (a) A charter school, home-based education entity, or micro-education entity shall

590 be considered a permitted use in all zoning districts within a municipality.

591 (b) Each land use application for any approval required for a charter school,
592 home-based education entity, or micro-education entity, including an application for a building
593 permit, shall be processed on a first priority basis.

594 (c) Parking requirements for a charter school or a micro-education entity may not
595 exceed the minimum parking requirements for schools or other institutional public uses
596 throughout the municipality.

597 (d) If a municipality has designated zones for a sexually oriented business, or a
598 business which sells alcohol, a charter school or a micro-education entity may be prohibited
599 from a location which would otherwise defeat the purpose for the zone unless the charter
600 school or micro-education entity provides a waiver.

601 (e) (i) A school district [~~or a~~], charter school, or micro-education entity may seek a
602 certificate authorizing permanent occupancy of a school building from:

603 (A) the state superintendent of public instruction, as provided in Subsection
604 53E-3-706(3), if the school district or charter school used an independent building inspector for
605 inspection of the school building; or

606 (B) a municipal official with authority to issue the certificate, if the school district [~~or~~],
607 charter school, or micro-education entity used a municipal building inspector for inspection of
608 the school building.

609 (ii) A school district may issue its own certificate authorizing permanent occupancy of
610 a school building if it used its own building inspector for inspection of the school building,
611 subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

612 (iii) A charter school or micro-education entity may seek a certificate authorizing
613 permanent occupancy of a school building from a school district official with authority to issue
614 the certificate, if the charter school or micro-education entity used a school district building
615 inspector for inspection of the school building.

616 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
617 of public instruction under Subsection 53E-3-706(3) or a school district official with authority
618 to issue the certificate shall be considered to satisfy any municipal requirement for an
619 inspection or a certificate of occupancy.

620 (f) (i) A micro-education entity may operate in a facility that meets Group E
621 Occupancy requirements as defined by the International Building Code, as incorporated by

622 Subsection 15A-2-103(1)(a).

623 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

624 (A) may have up to 100 students in the facility; and

625 (B) shall have enough space for at least 20 net square feet per student.

626 (g) A micro-education entity may operate in a facility that is subject to and complies

627 with the same occupancy requirements as a Class B Occupancy as defined by the International

628 Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

629 (i) the facility has a code compliant fire alarm system and carbon monoxide detection
630 system;

631 (ii) (A) each classroom in the facility has an exit directly to the outside at the level of
632 exit or discharge; or

633 (B) the structure has a code compliant fire sprinkler system;

634 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
635 are greater than 12,000 square feet; and

636 (iv) the facility has enough space for at least 20 net square feet per student.

637 (h) (i) A home-based education entity is not subject to additional occupancy
638 requirements beyond occupancy requirements that apply to a primary dwelling, except that the
639 home-based education entity shall have enough space for at least 35 net square feet per student.

640 (ii) If a floor that is below grade in a home-based education entity is used for
641 home-based education entity purposes, the below grade floor of the home-based education
642 entity shall have at least one emergency escape or rescue window that complies with the
643 requirements for emergency escape and rescue windows as defined by the International
644 Residential Code, as incorporated by Section 15A-1-210.

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

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

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

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

651 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c),

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

653 (C) the amount of any applicable fee described in Section 10-9a-510;

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

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

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

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

661 (a) modify or supersede Section 10-9a-304; or

662 (b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance,
663 that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
664 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
665 1990, 42 U.S.C. 12102, or any other provision of federal law.

666 (10) Nothing in Subsection (7) prevents a political subdivision from:

667 (a) requiring a home-based education entity or micro-education entity to comply with
668 municipal zoning and land use regulations that do not conflict with this section, including:

669 (i) parking;

670 (ii) traffic; and

671 (iii) hours of operation;

672 (b) requiring a home-based education entity or micro-education entity to obtain a
673 business license;

674 (c) enacting municipal ordinances and regulations consistent with this section;

675 (d) subjecting a micro-education entity to standards within each zone pertaining to
676 setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and
677 construction staging; and

678 (e) imposing regulations on the location of a project that are necessary to avoid risks to
679 health or safety.

680 Section 3. Section **10-9a-529** is amended to read:

681 **10-9a-529. Specified public utility located in a municipal utility easement.**

682 A specified public utility may exercise each power of a public utility under Section
683 54-3-27 if the specified public utility uses an easement:

- 684 (1) with the consent of a municipality; and
- 685 (2) that is located within a municipal utility easement described in Subsections
- 686 ~~[10-9a-103(40)(a) through (e)]~~ 10-9a-103(42)(a) through (e).
- 687 Section 4. Section **17-27a-103** is amended to read:
- 688 **17-27a-103. Definitions.**
- 689 As used in this chapter:
- 690 (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or
- 691 detached from a primary single-family dwelling and contained on one lot.
- 692 (2) "Adversely affected party" means a person other than a land use applicant who:
- 693 (a) owns real property adjoining the property that is the subject of a land use
- 694 application or land use decision; or
- 695 (b) will suffer a damage different in kind than, or an injury distinct from, that of the
- 696 general community as a result of the land use decision.
- 697 (3) "Affected entity" means a county, municipality, special district, special service
- 698 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
- 699 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
- 700 property owner, property owner's association, public utility, or the Department of
- 701 Transportation, if:
- 702 (a) the entity's services or facilities are likely to require expansion or significant
- 703 modification because of an intended use of land;
- 704 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
- 705 or
- 706 (c) the entity has filed with the county a request for notice during the same calendar
- 707 year and before the county provides notice to an affected entity in compliance with a
- 708 requirement imposed under this chapter.
- 709 (4) "Affected owner" means the owner of real property that is:
- 710 (a) a single project;
- 711 (b) the subject of a land use approval that sponsors of a referendum timely challenged
- 712 in accordance with Subsection 20A-7-601(6); and
- 713 (c) determined to be legally referable under Section 20A-7-602.8.
- 714 (5) "Appeal authority" means the person, board, commission, agency, or other body

715 designated by ordinance to decide an appeal of a decision of a land use application or a
716 variance.

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

720 (7) (a) "Charter school" means:

721 (i) an operating charter school;

722 (ii) a charter school applicant that a charter school authorizer approves in accordance
723 with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

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

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

727 (8) "Chief executive officer" means the person or body that exercises the executive
728 powers of the county.

729 (9) "Conditional use" means a land use that, because of the unique characteristics or
730 potential impact of the land use on the county, surrounding neighbors, or adjacent land uses,
731 may not be compatible in some areas or may be compatible only if certain conditions are
732 required that mitigate or eliminate the detrimental impacts.

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

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

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

737 (11) "County utility easement" means an easement that:

738 (a) a plat recorded in a county recorder's office described as a county utility easement
739 or otherwise as a utility easement;

740 (b) is not a protected utility easement or a public utility easement as defined in Section
741 54-3-27;

742 (c) the county or the county's affiliated governmental entity owns or creates; and

743 (d) (i) either:

744 (A) no person uses or occupies; or

745 (B) the county or the county's affiliated governmental entity uses and occupies to

746 provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or
747 communications or data lines; or

748 (ii) a person uses or occupies with or without an authorized franchise or other
749 agreement with the county.

750 (12) "Culinary water authority" means the department, agency, or public entity with
751 responsibility to review and approve the feasibility of the culinary water system and sources for
752 the subject property.

753 (13) "Development activity" means:

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

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

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

760 (14) (a) "Development agreement" means a written agreement or amendment to a
761 written agreement between a county and one or more parties that regulates or controls the use
762 or development of a specific area of land.

763 (b) "Development agreement" does not include an improvement completion assurance.

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

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

770 (16) "Educational facility":

771 (a) means:

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

775 (ii) a structure or facility:

776 (A) located on the same property as a building described in Subsection (16)(a)(i); and

- 777 (B) used in support of the use of that building; and
778 (iii) a building to provide office and related space to a school district's administrative
779 personnel; and
780 (b) does not include:
781 (i) land or a structure, including land or a structure for inventory storage, equipment
782 storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
783 (A) not located on the same property as a building described in Subsection (16)(a)(i);
784 and
785 (B) used in support of the purposes of a building described in Subsection (16)(a)(i); or
786 (ii) a therapeutic school.
787 (17) "Fire authority" means the department, agency, or public entity with responsibility
788 to review and approve the feasibility of fire protection and suppression services for the subject
789 property.
790 (18) "Flood plain" means land that:
791 (a) is within the 100-year flood plain designated by the Federal Emergency
792 Management Agency; or
793 (b) has not been studied or designated by the Federal Emergency Management Agency
794 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
795 the land has characteristics that are similar to those of a 100-year flood plain designated by the
796 Federal Emergency Management Agency.
797 (19) "Gas corporation" has the same meaning as defined in Section 54-2-1.
798 (20) "General plan" means a document that a county adopts that sets forth general
799 guidelines for proposed future development of:
800 (a) the unincorporated land within the county; or
801 (b) for a mountainous planning district, the land within the mountainous planning
802 district.
803 (21) "Geologic hazard" means:
804 (a) a surface fault rupture;
805 (b) shallow groundwater;
806 (c) liquefaction;
807 (d) a landslide;

- 808 (e) a debris flow;
- 809 (f) unstable soil;
- 810 (g) a rock fall; or
- 811 (h) any other geologic condition that presents a risk:
- 812 (i) to life;
- 813 (ii) of substantial loss of real property; or
- 814 (iii) of substantial damage to real property.
- 815 (22) "Home-based education entity" means the same as that term is defined in Section
- 816 53G-6-201.
- 817 [~~(22)~~] (23) "Hookup fee" means a fee for the installation and inspection of any pipe,
- 818 line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other
- 819 utility system.
- 820 [~~(23)~~] (24) "Identical plans" means building plans submitted to a county that:
- 821 (a) are clearly marked as "identical plans";
- 822 (b) are substantially identical building plans that were previously submitted to and
- 823 reviewed and approved by the county; and
- 824 (c) describe a building that:
- 825 (i) is located on land zoned the same as the land on which the building described in the
- 826 previously approved plans is located;
- 827 (ii) is subject to the same geological and meteorological conditions and the same law
- 828 as the building described in the previously approved plans;
- 829 (iii) has a floor plan identical to the building plan previously submitted to and reviewed
- 830 and approved by the county; and
- 831 (iv) does not require any additional engineering or analysis.
- 832 [~~(24)~~] (25) "Impact fee" means a payment of money imposed under Title 11, Chapter
- 833 36a, Impact Fees Act.
- 834 [~~(25)~~] (26) "Improvement completion assurance" means a surety bond, letter of credit,
- 835 financial institution bond, cash, assignment of rights, lien, or other equivalent security required
- 836 by a county to guaranty the proper completion of landscaping or an infrastructure improvement
- 837 required as a condition precedent to:
- 838 (a) recording a subdivision plat; or

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

840 [(26)] (27) "Improvement warranty" means an applicant's unconditional warranty that
841 the applicant's installed and accepted landscaping or infrastructure improvement:

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

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

846 [(27)] (28) "Improvement warranty period" means a period:

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

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

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

852 (ii) has substantial evidence, on record:

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

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

856 [(28)] (29) "Infrastructure improvement" means permanent infrastructure that is
857 essential for the public health and safety or that:

858 (a) is required for human consumption; and

859 (b) an applicant must install:

860 (i) in accordance with published installation and inspection specifications for public
861 improvements; and

862 (ii) as a condition of:

863 (A) recording a subdivision plat;

864 (B) obtaining a building permit; or

865 (C) developing a commercial, industrial, mixed use, condominium, or multifamily
866 project.

867 [(29)] (30) "Internal lot restriction" means a platted note, platted demarcation, or
868 platted designation that:

869 (a) runs with the land; and

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

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

874 ~~[(30)]~~ (31) "Interstate pipeline company" means a person or entity engaged in natural
875 gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission
876 under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

877 ~~[(31)]~~ (32) "Intrastate pipeline company" means a person or entity engaged in natural
878 gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
879 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

880 ~~[(32)]~~ (33) "Land use applicant" means a property owner, or the property owner's
881 designee, who submits a land use application regarding the property owner's land.

882 ~~[(33)]~~ (34) "Land use application":

883 (a) means an application that is:

884 (i) required by a county; and

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

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

887 ~~[(34)]~~ (35) "Land use authority" means:

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

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

892 ~~[(35)]~~ (36) "Land use decision" means an administrative decision of a land use
893 authority or appeal authority regarding:

894 (a) a land use permit;

895 (b) a land use application; or

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

898 ~~[(36)]~~ (37) "Land use permit" means a permit issued by a land use authority.

899 ~~[(37)]~~ (38) "Land use regulation":

900 (a) means a legislative decision enacted by ordinance, law, code, map, resolution,

- 901 specification, fee, or rule that governs the use or development of land;
- 902 (b) includes the adoption or amendment of a zoning map or the text of the zoning code;
- 903 and
- 904 (c) does not include:
- 905 (i) a land use decision of the legislative body acting as the land use authority, even if
- 906 the decision is expressed in a resolution or ordinance; or
- 907 (ii) a temporary revision to an engineering specification that does not materially:
- 908 (A) increase a land use applicant's cost of development compared to the existing
- 909 specification; or
- 910 (B) impact a land use applicant's use of land.
- 911 [~~(38)~~] (39) "Legislative body" means the county legislative body, or for a county that
- 912 has adopted an alternative form of government, the body exercising legislative powers.
- 913 [~~(39)~~] (40) "Lot" means a tract of land, regardless of any label, that is created by and
- 914 shown on a subdivision plat that has been recorded in the office of the county recorder.
- 915 [~~(40)~~] (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between
- 916 adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:
- 917 (i) whether or not the lots are located in the same subdivision; and
- 918 (ii) with the consent of the owners of record.
- 919 (b) "Lot line adjustment" does not mean a new boundary line that:
- 920 (i) creates an additional lot; or
- 921 (ii) constitutes a subdivision or a subdivision amendment.
- 922 (c) "Lot line adjustment" does not include a boundary line adjustment made by the
- 923 Department of Transportation.
- 924 [~~(41)~~] (42) "Major transit investment corridor" means public transit service that uses or
- 925 occupies:
- 926 (a) public transit rail right-of-way;
- 927 (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;
- 928 or
- 929 (c) fixed-route bus corridors subject to an interlocal agreement or contract between a
- 930 municipality or county and:
- 931 (i) a public transit district as defined in Section 17B-2a-802; or

932 (ii) an eligible political subdivision as defined in Section 59-12-2219.

933 (43) "Micro-education entity" means that same as that term is defined in Section
934 53G-6-201.

935 [~~(42)~~] (44) "Moderate income housing" means housing occupied or reserved for
936 occupancy by households with a gross household income equal to or less than 80% of the
937 median gross income for households of the same size in the county in which the housing is
938 located.

939 [~~(43)~~] (45) "Mountainous planning district" means an area designated by a county
940 legislative body in accordance with Section 17-27a-901.

941 [~~(44)~~] (46) "Nominal fee" means a fee that reasonably reimburses a county only for
942 time spent and expenses incurred in:

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

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

946 [~~(45)~~] (47) "Noncomplying structure" means a structure that:

947 (a) legally existed before the structure's current land use designation; and

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

951 [~~(46)~~] (48) "Nonconforming use" means a use of land that:

952 (a) legally existed before the current land use designation;

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

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

957 [~~(47)~~] (49) "Official map" means a map drawn by county authorities and recorded in
958 the county recorder's office that:

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

961 (b) provides a basis for restricting development in designated rights-of-way or between
962 designated setbacks to allow the government authorities time to purchase or otherwise reserve

963 the land; and

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

965 [~~(48)~~] (50) "Parcel" means any real property that is not a lot.

966 [~~(49)~~] (51) (a) "Parcel boundary adjustment" means a recorded agreement between
967 owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary
968 line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

969 (i) none of the property identified in the agreement is a lot; or

970 (ii) the adjustment is to the boundaries of a single person's parcels.

971 (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary
972 line that:

973 (i) creates an additional parcel; or

974 (ii) constitutes a subdivision.

975 (c) "Parcel boundary adjustment" does not include a boundary line adjustment made by
976 the Department of Transportation.

977 [~~(50)~~] (52) "Person" means an individual, corporation, partnership, organization,
978 association, trust, governmental agency, or any other legal entity.

979 [~~(51)~~] (53) "Plan for moderate income housing" means a written document adopted by
980 a county legislative body that includes:

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

983 (b) an estimate of the need for moderate income housing in the county for the next five
984 years;

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

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

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

990 [~~(52)~~] (54) "Planning advisory area" means a contiguous, geographically defined
991 portion of the unincorporated area of a county established under this part with planning and
992 zoning functions as exercised through the planning advisory area planning commission, as
993 provided in this chapter, but with no legal or political identity separate from the county and no

994 taxing authority.

995 ~~[(53)]~~ (55) "Plat" means an instrument subdividing property into lots as depicted on a
996 map or other graphical representation of lands that a licensed professional land surveyor makes
997 and prepares in accordance with Section 17-27a-603 or 57-8-13.

998 ~~[(54)]~~ (56) "Potential geologic hazard area" means an area that:

999 (a) is designated by a Utah Geological Survey map, county geologist map, or other
1000 relevant map or report as needing further study to determine the area's potential for geologic
1001 hazard; or

1002 (b) has not been studied by the Utah Geological Survey or a county geologist but
1003 presents the potential of geologic hazard because the area has characteristics similar to those of
1004 a designated geologic hazard area.

1005 ~~[(55)]~~ (57) "Public agency" means:

1006 (a) the federal government;

1007 (b) the state;

1008 (c) a county, municipality, school district, special district, special service district, or
1009 other political subdivision of the state; or

1010 (d) a charter school.

1011 ~~[(56)]~~ (58) "Public hearing" means a hearing at which members of the public are
1012 provided a reasonable opportunity to comment on the subject of the hearing.

1013 ~~[(57)]~~ (59) "Public meeting" means a meeting that is required to be open to the public
1014 under Title 52, Chapter 4, Open and Public Meetings Act.

1015 ~~[(58)]~~ (60) "Public street" means a public right-of-way, including a public highway,
1016 public avenue, public boulevard, public parkway, public road, public lane, public alley, public
1017 viaduct, public subway, public tunnel, public bridge, public byway, other public transportation
1018 easement, or other public way.

1019 ~~[(59)]~~ (61) "Receiving zone" means an unincorporated area of a county that the county
1020 designates, by ordinance, as an area in which an owner of land may receive a transferable
1021 development right.

1022 ~~[(60)]~~ (62) "Record of survey map" means a map of a survey of land prepared in
1023 accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

1024 ~~[(61)]~~ (63) "Residential facility for persons with a disability" means a residence:

- 1025 (a) in which more than one person with a disability resides; and
1026 (b) which is licensed or certified by the Department of Health and Human Services
1027 under:
- 1028 (i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or
1029 (ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.
- 1030 [~~(62)~~] (64) "Residential roadway" means a public local residential road that:
- 1031 (a) will serve primarily to provide access to adjacent primarily residential areas and
1032 property;
- 1033 (b) is designed to accommodate minimal traffic volumes or vehicular traffic;
- 1034 (c) is not identified as a supplementary to a collector or other higher system classified
1035 street in an approved municipal street or transportation master plan;
- 1036 (d) has a posted speed limit of 25 miles per hour or less;
- 1037 (e) does not have higher traffic volumes resulting from connecting previously separated
1038 areas of the municipal road network;
- 1039 (f) cannot have a primary access, but can have a secondary access, and does not abut
1040 lots intended for high volume traffic or community centers, including schools, recreation
1041 centers, sports complexes, or libraries; and
- 1042 (g) primarily serves traffic within a neighborhood or limited residential area and is not
1043 necessarily continuous through several residential areas.
- 1044 [~~(63)~~] (65) "Rules of order and procedure" means a set of rules that govern and
1045 prescribe in a public meeting:
- 1046 (a) parliamentary order and procedure;
- 1047 (b) ethical behavior; and
- 1048 (c) civil discourse.
- 1049 [~~(64)~~] (66) "Sanitary sewer authority" means the department, agency, or public entity
1050 with responsibility to review and approve the feasibility of sanitary sewer services or onsite
1051 wastewater systems.
- 1052 [~~(65)~~] (67) "Sending zone" means an unincorporated area of a county that the county
1053 designates, by ordinance, as an area from which an owner of land may transfer a transferable
1054 development right.
- 1055 [~~(66)~~] (68) "Site plan" means a document or map that may be required by a county

1056 during a preliminary review preceding the issuance of a building permit to demonstrate that an
1057 owner's or developer's proposed development activity meets a land use requirement.

1058 ~~[(67)]~~ (69) (a) "Special district" means an entity under Title 17B, Limited Purpose
1059 Local Government Entities - Special Districts.

1060 (b) "Special district" includes a governmental or quasi-governmental entity that is not a
1061 county, municipality, school district, or the state.

1062 ~~[(68)]~~ (70) "Specified public agency" means:

1063 (a) the state;

1064 (b) a school district; or

1065 (c) a charter school.

1066 ~~[(69)]~~ (71) "Specified public utility" means an electrical corporation, gas corporation,
1067 or telephone corporation, as those terms are defined in Section 54-2-1.

1068 ~~[(70)]~~ (72) "State" includes any department, division, or agency of the state.

1069 ~~[(71)]~~ (73) (a) "Subdivision" means any land that is divided, resubdivided, or proposed
1070 to be divided into two or more lots or other division of land for the purpose, whether
1071 immediate or future, for offer, sale, lease, or development either on the installment plan or
1072 upon any and all other plans, terms, and conditions.

1073 (b) "Subdivision" includes:

1074 (i) the division or development of land, whether by deed, metes and bounds
1075 description, devise and testacy, map, plat, or other recorded instrument, regardless of whether
1076 the division includes all or a portion of a parcel or lot; and

1077 (ii) except as provided in Subsection ~~[(70)(c)]~~ (73)(c), divisions of land for residential
1078 and nonresidential uses, including land used or to be used for commercial, agricultural, and
1079 industrial purposes.

1080 (c) "Subdivision" does not include:

1081 (i) a bona fide division or partition of agricultural land for agricultural purposes;

1082 (ii) a boundary line agreement recorded with the county recorder's office between
1083 owners of adjoining parcels adjusting the mutual boundary in accordance with Section
1084 17-27a-523 if no new lot is created;

1085 (iii) a recorded document, executed by the owner of record:

1086 (A) revising the legal descriptions of multiple parcels into one legal description

- 1087 encompassing all such parcels; or
- 1088 (B) joining a lot to a parcel;
- 1089 (iv) a bona fide division or partition of land in a county other than a first class county
- 1090 for the purpose of siting, on one or more of the resulting separate parcels:
- 1091 (A) an electrical transmission line or a substation;
- 1092 (B) a natural gas pipeline or a regulation station; or
- 1093 (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other
- 1094 utility service regeneration, transformation, retransmission, or amplification facility;
- 1095 (v) a boundary line agreement between owners of adjoining subdivided properties
- 1096 adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608
- 1097 if:
- 1098 (A) no new dwelling lot or housing unit will result from the adjustment; and
- 1099 (B) the adjustment will not violate any applicable land use ordinance;
- 1100 (vi) a bona fide division of land by deed or other instrument if the deed or other
- 1101 instrument states in writing that the division:
- 1102 (A) is in anticipation of future land use approvals on the parcel or parcels;
- 1103 (B) does not confer any land use approvals; and
- 1104 (C) has not been approved by the land use authority;
- 1105 (vii) a parcel boundary adjustment;
- 1106 (viii) a lot line adjustment;
- 1107 (ix) a road, street, or highway dedication plat;
- 1108 (x) a deed or easement for a road, street, or highway purpose; or
- 1109 (xi) any other division of land authorized by law.
- 1110 [~~(72)~~] (74) (a) "Subdivision amendment" means an amendment to a recorded
- 1111 subdivision in accordance with Section 17-27a-608 that:
- 1112 (i) vacates all or a portion of the subdivision;
- 1113 (ii) alters the outside boundary of the subdivision;
- 1114 (iii) changes the number of lots within the subdivision;
- 1115 (iv) alters a public right-of-way, a public easement, or public infrastructure within the
- 1116 subdivision; or
- 1117 (v) alters a common area or other common amenity within the subdivision.

1118 (b) "Subdivision amendment" does not include a lot line adjustment, between a single
1119 lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

1120 [~~(73)~~] (75) "Substantial evidence" means evidence that:

1121 (a) is beyond a scintilla; and

1122 (b) a reasonable mind would accept as adequate to support a conclusion.

1123 [~~(74)~~] (76) "Suspect soil" means soil that has:

1124 (a) a high susceptibility for volumetric change, typically clay rich, having more than a
1125 3% swell potential;

1126 (b) bedrock units with high shrink or swell susceptibility; or

1127 (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum
1128 commonly associated with dissolution and collapse features.

1129 [~~(75)~~] (77) "Therapeutic school" means a residential group living facility:

1130 (a) for four or more individuals who are not related to:

1131 (i) the owner of the facility; or

1132 (ii) the primary service provider of the facility;

1133 (b) that serves students who have a history of failing to function:

1134 (i) at home;

1135 (ii) in a public school; or

1136 (iii) in a nonresidential private school; and

1137 (c) that offers:

1138 (i) room and board; and

1139 (ii) an academic education integrated with:

1140 (A) specialized structure and supervision; or

1141 (B) services or treatment related to a disability, an emotional development, a
1142 behavioral development, a familial development, or a social development.

1143 [~~(76)~~] (78) "Transferable development right" means a right to develop and use land that
1144 originates by an ordinance that authorizes a land owner in a designated sending zone to transfer
1145 land use rights from a designated sending zone to a designated receiving zone.

1146 [~~(77)~~] (79) "Unincorporated" means the area outside of the incorporated area of a
1147 municipality.

1148 [~~(78)~~] (80) "Water interest" means any right to the beneficial use of water, including:

- 1149 (a) each of the rights listed in Section 73-1-11; and
 1150 (b) an ownership interest in the right to the beneficial use of water represented by:
 1151 (i) a contract; or
 1152 (ii) a share in a water company, as defined in Section 73-3-3.5.
 1153 [~~(79)~~] (81) "Zoning map" means a map, adopted as part of a land use ordinance, that
 1154 depicts land use zones, overlays, or districts.

1155 Section 5. Section **17-27a-305** is amended to read:

1156 **17-27a-305. Other entities required to conform to county's land use ordinances --**
 1157 **Exceptions -- School districts, charter schools, home-based education entities, and**
 1158 **micro-education entities -- Submission of development plan and schedule.**

1159 (1) (a) Each county, municipality, school district, charter school, special district,
 1160 special service district, and political subdivision of the state shall conform to any applicable
 1161 land use ordinance of any county when installing, constructing, operating, or otherwise using
 1162 any area, land, or building situated within a mountainous planning district or the
 1163 unincorporated portion of the county, as applicable.

1164 (b) In addition to any other remedies provided by law, when a county's land use
 1165 ordinance is violated or about to be violated by another political subdivision, that county may
 1166 institute an injunction, mandamus, abatement, or other appropriate action or proceeding to
 1167 prevent, enjoin, abate, or remove the improper installation, improvement, or use.

1168 (2) (a) Except as provided in Subsection (3), a school district or charter school is
 1169 subject to a county's land use ordinances.

1170 (b) (i) Notwithstanding Subsection (3), a county may:

1171 (A) subject a charter school to standards within each zone pertaining to setback, height,
 1172 bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction
 1173 staging; and

1174 (B) impose regulations upon the location of a project that are necessary to avoid
 1175 unreasonable risks to health or safety, as provided in Subsection (3)(f).

1176 (ii) The standards to which a county may subject a charter school under Subsection
 1177 (2)(b)(i) shall be objective standards only and may not be subjective.

1178 (iii) Except as provided in Subsection (7)(d), the only basis upon which a county may
 1179 deny or withhold approval of a charter school's land use application is the charter school's

1180 failure to comply with a standard imposed under Subsection (2)(b)(i).

1181 (iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an
1182 obligation to comply with a requirement of an applicable building or safety code to which it is
1183 otherwise obligated to comply.

1184 (3) A county may not:

1185 (a) impose requirements for landscaping, fencing, aesthetic considerations,
1186 construction methods or materials, additional building inspections, county building codes,
1187 building use for educational purposes, or the placement or use of temporary classroom facilities
1188 on school property;

1189 (b) except as otherwise provided in this section, require a school district or charter
1190 school to participate in the cost of any roadway or sidewalk, or a study on the impact of a
1191 school on a roadway or sidewalk, that is not reasonably necessary for the safety of school
1192 children and not located on or contiguous to school property, unless the roadway or sidewalk is
1193 required to connect an otherwise isolated school site to an existing roadway;

1194 (c) require a district or charter school to pay fees not authorized by this section;

1195 (d) provide for inspection of school construction or assess a fee or other charges for
1196 inspection, unless the school district or charter school is unable to provide for inspection by an
1197 inspector, other than the project architect or contractor, who is qualified under criteria
1198 established by the state superintendent;

1199 (e) require a school district or charter school to pay any impact fee for an improvement
1200 project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

1201 (f) impose regulations upon the location of an educational facility except as necessary
1202 to avoid unreasonable risks to health or safety; or

1203 (g) for a land use or a structure owned or operated by a school district or charter school
1204 that is not an educational facility but is used in support of providing instruction to pupils,
1205 impose a regulation that:

1206 (i) is not imposed on a similar land use or structure in the zone in which the land use or
1207 structure is approved; or

1208 (ii) uses the tax exempt status of the school district or charter school as criteria for
1209 prohibiting or regulating the land use or location of the structure.

1210 (4) Subject to Section 53E-3-710, a school district or charter school shall coordinate

1211 the siting of a new school with the county in which the school is to be located, to:

1212 (a) avoid or mitigate existing and potential traffic hazards, including consideration of

1213 the impacts between the new school and future highways; and

1214 (b) maximize school, student, and site safety.

1215 (5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

1216 (a) provide a walk-through of school construction at no cost and at a time convenient to

1217 the district or charter school; and

1218 (b) provide recommendations based upon the walk-through.

1219 (6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

1220 (i) a county building inspector;

1221 (ii) (A) for a school district, a school district building inspector from that school

1222 district; or

1223 (B) for a charter school, a school district building inspector from the school district in

1224 which the charter school is located; or

1225 (iii) an independent, certified building inspector who is[:]

1226 [~~(A)~~] not an employee of the contractor[;], licensed to perform the inspection that the

1227 inspector is requested to perform, and

1228 [~~(B)~~] approved by[;]

1229 [~~(H)~~] a county building inspector[;] or;

1230 [~~(H)~~] (A) [~~(Aa)~~] for a school district, a school district building inspector from that

1231 school district; or

1232 [~~(Bb)~~] (B) for a charter school, a school district building inspector from the school

1233 district in which the charter school is located[; ~~and~~].

1234 [~~(C)~~ licensed to perform the inspection that the inspector is requested to perform.]

1235 (b) The approval under Subsection [~~(6)(a)(iii)(B)~~] (6)(a)(iii) may not be unreasonably

1236 withheld.

1237 (c) If a school district or charter school uses a school district or independent building

1238 inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to

1239 the state superintendent of public instruction and county building official, on a monthly basis

1240 during construction of the school building, a copy of each inspection certificate regarding the

1241 school building.

1242 (7) (a) A charter school, home-based education entity, or micro-education entity shall
1243 be considered a permitted use in all zoning districts within a county.

1244 (b) Each land use application for any approval required for a charter school,
1245 home-based education entity, or micro-education entity, including an application for a building
1246 permit, shall be processed on a first priority basis.

1247 (c) Parking requirements for a charter school or micro-education entity may not exceed
1248 the minimum parking requirements for schools or other institutional public uses throughout the
1249 county.

1250 (d) If a county has designated zones for a sexually oriented business, or a business
1251 which sells alcohol, a charter school or micro-education entity may be prohibited from a
1252 location which would otherwise defeat the purpose for the zone unless the charter school or
1253 micro-education entity provides a waiver.

1254 (e) (i) A school district [~~or a~~], charter school, or micro-education entity may seek a
1255 certificate authorizing permanent occupancy of a school building from:

1256 (A) the state superintendent of public instruction, as provided in Subsection
1257 53E-3-706(3), if the school district [~~or~~], charter school, or micro-education entity used an
1258 independent building inspector for inspection of the school building; or

1259 (B) a county official with authority to issue the certificate, if the school district [~~or~~],
1260 charter school, or micro-education entity used a county building inspector for inspection of the
1261 school building.

1262 (ii) A school district may issue its own certificate authorizing permanent occupancy of
1263 a school building if it used its own building inspector for inspection of the school building,
1264 subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

1265 (iii) A charter school or micro-education entity may seek a certificate authorizing
1266 permanent occupancy of a school building from a school district official with authority to issue
1267 the certificate, if the charter school or micro-education entity used a school district building
1268 inspector for inspection of the school building.

1269 (iv) A certificate authorizing permanent occupancy issued by the state superintendent
1270 of public instruction under Subsection 53E-3-706(3) or a school district official with authority
1271 to issue the certificate shall be considered to satisfy any county requirement for an inspection or
1272 a certificate of occupancy.

- 1273 (f) (i) A micro-education entity may operate a facility that meets Group E Occupancy
1274 requirements as defined by the International Building Code, as incorporated by Subsection
1275 15A-2-103(1)(a).
- 1276 (ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):
1277 (A) may have up to 100 students in the facility; and
1278 (B) shall have enough space for at least 20 net square feet per student;
- 1279 (g) A micro-education entity may operate a facility that is subject to and complies with
1280 the same occupancy requirements as a Class B Occupancy as defined by the International
1281 Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:
- 1282 (i) the facility has a code compliant fire alarm system and carbon monoxide detection
1283 system;
- 1284 (ii) (A) each classroom in the facility has an exit directly to the outside at the level of
1285 exit discharge; or
- 1286 (B) the structure has a code compliant fire sprinkler system;
- 1287 (iii) the facility has an automatic fire sprinkler system in fire areas of the facility that
1288 are greater than 12,000 square feet; and
- 1289 (iv) the facility has enough space for at least 20 net square feet per student.
- 1290 (h) (i) A home-based education entity is not subject to additional occupancy
1291 requirements beyond occupancy requirements that apply to a primary dwelling, except that the
1292 home-based education entity shall have enough space for at least 35 square feet per student.
- 1293 (ii) If a floor that is below grade in a home-based education entity is used for
1294 home-based education entity purposes, the below grade floor of the home-based education
1295 entity shall have at least one emergency escape or rescue window that complies with the
1296 requirements for emergency escape and rescue windows as defined by the International
1297 Residential Code, as incorporated in Section 15A-1-210.
- 1298 (8) (a) A specified public agency intending to develop its land shall submit to the land
1299 use authority a development plan and schedule:
- 1300 (i) as early as practicable in the development process, but no later than the
1301 commencement of construction; and
- 1302 (ii) with sufficient detail to enable the land use authority to assess:
- 1303 (A) the specified public agency's compliance with applicable land use ordinances;

1304 (B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c),
1305 (d), (e), and (g) caused by the development;

1306 (C) the amount of any applicable fee described in Section 17-27a-509;

1307 (D) any credit against an impact fee; and

1308 (E) the potential for waiving an impact fee.

1309 (b) The land use authority shall respond to a specified public agency's submission
1310 under Subsection (8)(a) with reasonable promptness in order to allow the specified public
1311 agency to consider information the municipality provides under Subsection (8)(a)(ii) in the
1312 process of preparing the budget for the development.

1313 (9) Nothing in this section may be construed to:

1314 (a) modify or supersede Section 17-27a-304; or

1315 (b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that
1316 fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing
1317 Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of
1318 1990, 42 U.S.C. 12102, or any other provision of federal law.

1319 (10) Nothing in Subsection (7) prevents a political subdivision from:

1320 (a) requiring a home-based education entity or micro-education entity to comply with
1321 local zoning and land use regulations that do not conflict with this section, including:

1322 (i) parking;

1323 (ii) traffic; and

1324 (iii) hours of operation;

1325 (b) requiring a home-based education entity or micro-education entity to obtain a
1326 business license;

1327 (c) enacting county ordinances and regulations consistent with this section;

1328 (d) subjecting a micro-education entity to standards within each zone pertaining to
1329 setback, height, bulk and massing regulations, off-site parking, cub cut, traffic circulation, and
1330 construction staging; and

1331 (e) imposing regulations on the location of a project that are necessary to avoid risks to
1332 health or safety.

1333 Section 6. Section **32B-1-102** is amended to read:

1334 **32B-1-102. Definitions.**

- 1335 As used in this title:
- 1336 (1) "Airport lounge" means a business location:
- 1337 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- 1338 (b) that is located at an international airport or domestic airport.
- 1339 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
- 1340 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.
- 1341 (3) "Alcoholic beverage" means the following:
- 1342 (a) beer; or
- 1343 (b) liquor.
- 1344 (4) (a) "Alcoholic product" means a product that:
- 1345 (i) contains at least .5% of alcohol by volume; and
- 1346 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
- 1347 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
- 1348 in an amount equal to or greater than .5% of alcohol by volume.
- 1349 (b) "Alcoholic product" includes an alcoholic beverage.
- 1350 (c) "Alcoholic product" does not include any of the following common items that
- 1351 otherwise come within the definition of an alcoholic product:
- 1352 (i) except as provided in Subsection (4)(d), an extract;
- 1353 (ii) vinegar;
- 1354 (iii) preserved nonintoxicating cider;
- 1355 (iv) essence;
- 1356 (v) tincture;
- 1357 (vi) food preparation; or
- 1358 (vii) an over-the-counter medicine.
- 1359 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
- 1360 when it is used as a flavoring in the manufacturing of an alcoholic product.
- 1361 (5) "Alcohol training and education seminar" means a seminar that is:
- 1362 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and
- 1363 (b) described in Section 26B-5-205.
- 1364 (6) "Arena" means an enclosed building:
- 1365 (a) that is managed by:

- 1366 (i) the same person who owns the enclosed building;
- 1367 (ii) a person who has a majority interest in each person who owns or manages a space
1368 in the enclosed building; or
- 1369 (iii) a person who has authority to direct or exercise control over the management or
1370 policy of each person who owns or manages a space in the enclosed building;
- 1371 (b) that operates as a venue; and
- 1372 (c) that has an occupancy capacity of at least 12,500.
- 1373 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
1374 License Act, and Chapter 8c, Arena License Act.
- 1375 (8) "Banquet" means an event:
- 1376 (a) that is a private event or a privately sponsored event;
- 1377 (b) that is held at one or more designated locations approved by the commission in or
1378 on the premises of:
- 1379 (i) a hotel;
- 1380 (ii) a resort facility;
- 1381 (iii) a sports center;
- 1382 (iv) a convention center;
- 1383 (v) a performing arts facility;
- 1384 (vi) an arena; or
- 1385 (vii) a restaurant venue;
- 1386 (c) for which there is a contract:
- 1387 (i) between a person operating a facility listed in Subsection (8)(b) and another person
1388 that has common ownership of less than 20% with the person operating the facility; and
- 1389 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to
1390 provide an alcoholic product at the event; and
- 1391 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.
- 1392 (9) (a) "Bar establishment license" means a license issued in accordance with Chapter
1393 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.
- 1394 (b) "Bar establishment license" includes:
- 1395 (i) a dining club license;
- 1396 (ii) an equity license;

- 1397 (iii) a fraternal license; or
- 1398 (iv) a bar license.
- 1399 (10) "Bar license" means a license issued in accordance with Chapter 5, Retail License
- 1400 Act, and Chapter 6, Part 4, Bar Establishment License.
- 1401 (11) (a) "Beer" means a product that:
- 1402 (i) contains:
- 1403 (A) at least .5% of alcohol by volume; and
- 1404 (B) no more than 5% of alcohol by volume or 4% by weight;
- 1405 (ii) is obtained by fermentation, infusion, or decoction of:
- 1406 (A) malt; or
- 1407 (B) a malt substitute; and
- 1408 (iii) is clearly marketed, labeled, and identified as:
- 1409 (A) beer;
- 1410 (B) ale;
- 1411 (C) porter;
- 1412 (D) stout;
- 1413 (E) lager;
- 1414 (F) a malt;
- 1415 (G) a malted beverage; or
- 1416 (H) seltzer.
- 1417 (b) "Beer" may contain:
- 1418 (i) hops extract;
- 1419 (ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or
- 1420 (iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:
- 1421 (A) is used in the production of beer;
- 1422 (B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade
- 1423 Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and
- 1424 (C) does not contribute more than 10% of the overall alcohol content of the beer.
- 1425 (c) "Beer" does not include:
- 1426 (i) a flavored malt beverage;
- 1427 (ii) a product that contains alcohol derived from:

- 1428 (A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or
1429 (B) wine; or
1430 (iii) a product that contains an additive masking or altering a physiological effect of
1431 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1432 (12) "Beer-only restaurant license" means a license issued in accordance with Chapter
1433 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1434 (13) "Beer retailer" means a business that:
1435 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
1436 for consumption on or off the business premises; and
1437 (b) is licensed as:
1438 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
1439 Retailer Local Authority; or
1440 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
1441 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 1442 (14) "Beer wholesaling license" means a license:
1443 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
1444 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
1445 retail licensees or off-premise beer retailers.
- 1446 (15) "Billboard" means a public display used to advertise, including:
1447 (a) a light device;
1448 (b) a painting;
1449 (c) a drawing;
1450 (d) a poster;
1451 (e) a sign;
1452 (f) a signboard; or
1453 (g) a scoreboard.
- 1454 (16) "Brewer" means a person engaged in manufacturing:
1455 (a) beer;
1456 (b) heavy beer; or
1457 (c) a flavored malt beverage.
- 1458 (17) "Brewery manufacturing license" means a license issued in accordance with

1459 Chapter 11, Part 5, Brewery Manufacturing License.

1460 (18) "Certificate of approval" means a certificate of approval obtained from the
1461 department under Section 32B-11-201.

1462 (19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
1463 a bus company to a group of persons pursuant to a common purpose:

1464 (a) under a single contract;

1465 (b) at a fixed charge in accordance with the bus company's tariff; and

1466 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
1467 motor vehicle, and a driver to travel together to one or more specified destinations.

1468 (20) "Church" means a building:

1469 (a) set apart for worship;

1470 (b) in which religious services are held;

1471 (c) with which clergy is associated; and

1472 (d) that is tax exempt under the laws of this state.

1473 (21) "Commission" means the Alcoholic Beverage Services Commission created in
1474 Section 32B-2-201.

1475 (22) "Commissioner" means a member of the commission.

1476 (23) "Community location" means:

1477 (a) a public or private school;

1478 (b) a church;

1479 (c) a public library;

1480 (d) a public playground; or

1481 (e) a public park.

1482 (24) "Community location governing authority" means:

1483 (a) the governing body of the community location; or

1484 (b) if the commission does not know who is the governing body of a community
1485 location, a person who appears to the commission to have been given on behalf of the
1486 community location the authority to prohibit an activity at the community location.

1487 (25) "Container" means a receptacle that contains an alcoholic product, including:

1488 (a) a bottle;

1489 (b) a vessel; or

- 1490 (c) a similar item.
- 1491 (26) "Controlled group of manufacturers" means as the commission defines by rule
1492 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1493 (27) "Convention center" means a facility that is:
- 1494 (a) in total at least 30,000 square feet; and
- 1495 (b) otherwise defined as a "convention center" by the commission by rule.
- 1496 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
1497 where seating is provided to a patron for service of food.
- 1498 (b) "Counter" does not include a dispensing structure.
- 1499 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1500 (30) "Department" means the Department of Alcoholic Beverage Services created in
1501 Section 32B-2-203.
- 1502 (31) "Department compliance officer" means an individual who is:
- 1503 (a) an auditor or inspector; and
- 1504 (b) employed by the department.
- 1505 (32) "Department sample" means liquor that is placed in the possession of the
1506 department for testing, analysis, and sampling.
- 1507 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail
1508 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1509 commission as a dining club license.
- 1510 (34) "Director," unless the context requires otherwise, means the director of the
1511 department.
- 1512 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
1513 title:
- 1514 (a) against a person subject to administrative action; and
- 1515 (b) that is brought on the basis of a violation of this title.
- 1516 (36) (a) Subject to Subsection (36)(b), "dispense" means:
- 1517 (i) drawing an alcoholic product; and
- 1518 (ii) using the alcoholic product at the location from which it was drawn to mix or
1519 prepare an alcoholic product to be furnished to a patron of the retail licensee.
- 1520 (b) The definition of "dispense" in this Subsection (36) applies only to:

- 1521 (i) a full-service restaurant license;
- 1522 (ii) a limited-service restaurant license;
- 1523 (iii) a reception center license;
- 1524 (iv) a beer-only restaurant license;
- 1525 (v) a bar license;
- 1526 (vi) an on-premise beer retailer;
- 1527 (vii) an airport lounge license;
- 1528 (viii) an on-premise banquet license; and
- 1529 (ix) a hospitality amenity license.
- 1530 (37) "Dispensing structure" means a surface or structure on a licensed premises:
- 1531 (a) where an alcoholic product is dispensed; or
- 1532 (b) from which an alcoholic product is served.
- 1533 (38) "Distillery manufacturing license" means a license issued in accordance with
- 1534 Chapter 11, Part 4, Distillery Manufacturing License.
- 1535 (39) "Distressed merchandise" means an alcoholic product in the possession of the
- 1536 department that is saleable, but for some reason is unappealing to the public.
- 1537 (40) "Domestic airport" means an airport that:
- 1538 (a) has at least 15,000 commercial airline passenger boardings in any five-year period;
- 1539 (b) receives scheduled commercial passenger aircraft service; and
- 1540 (c) is not an international airport.
- 1541 (41) "Equity license" means a license issued in accordance with Chapter 5, Retail
- 1542 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
- 1543 commission as an equity license.
- 1544 (42) "Event permit" means:
- 1545 (a) a single event permit; or
- 1546 (b) a temporary beer event permit.
- 1547 (43) "Exempt license" means a license exempt under Section 32B-1-201 from being
- 1548 considered in determining the total number of retail licenses that the commission may issue at
- 1549 any time.
- 1550 (44) (a) "Flavored malt beverage" means a beverage:
- 1551 (i) that contains at least .5% alcohol by volume;

1552 (ii) for which the producer is required to file a formula for approval with the federal
1553 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1554 is treated by processing, filtration, or another method of manufacture that is not generally
1555 recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt
1556 liquor; and

1557 (iii) for which the producer is required to file a formula for approval with the federal
1558 Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage
1559 includes an ingredient containing alcohol.

1560 (b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or
1561 ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

1562 (c) "Flavored malt beverage" does not include beer or heavy beer.

1563 (d) "Flavored malt beverage" is considered liquor for purposes of this title.

1564 (45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
1565 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1566 commission as a fraternal license.

1567 (46) "Full-service restaurant license" means a license issued in accordance with
1568 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

1569 (47) (a) "Furnish" means by any means to provide with, supply, or give an individual
1570 an alcoholic product, by sale or otherwise.

1571 (b) "Furnish" includes to:

1572 (i) serve;

1573 (ii) deliver; or

1574 (iii) otherwise make available.

1575 (48) "Guest" means an individual who meets the requirements of Subsection
1576 32B-6-407(9).

1577 (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

1578 (50) "Health care practitioner" means:

1579 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1580 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

1581 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1582 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice

1583 Act;

1584 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,

1585 Nurse Practice Act;

1586 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy

1587 Practice Act;

1588 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational

1589 Therapy Practice Act;

1590 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

1591 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health

1592 Professional Practice Act;

1593 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

1594 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical

1595 Practice Act;

1596 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental

1597 Hygienist Practice Act; and

1598 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

1599 Assistant Act.

1600 (51) (a) "Heavy beer" means a product that:

1601 (i) (A) contains more than 5% alcohol by volume;

1602 (B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by

1603 volume or 4% by weight, and a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring

1604 agent that contributes more than 10% of the overall alcohol content of the product; or

1605 (C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by

1606 volume or 4% by weight, and has a label or packaging that is rejected under Subsection

1607 32B-1-606(3)(b); and

1608 (ii) is obtained by fermentation, infusion, or decoction of:

1609 (A) malt; or

1610 (B) a malt substitute.

1611 (b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume,

1612 contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to

1613 the overall alcohol content of the heavy beer.

- 1614 (c) "Heavy beer" does not include:
- 1615 (i) a flavored malt beverage;
- 1616 (ii) a product that contains alcohol derived from:
- 1617 (A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or
- 1618 (B) wine; or
- 1619 (iii) a product that contains an additive masking or altering a physiological effect of
- 1620 alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.
- 1621 (d) "Heavy beer" is considered liquor for the purposes of this title.
- 1622 (52) "Hospitality amenity license" means a license issued in accordance with Chapter
- 1623 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- 1624 (53) (a) "Hotel" means a commercial lodging establishment that:
- 1625 (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;
- 1626 (ii) is capable of hosting conventions, conferences, and food and beverage functions
- 1627 under a banquet contract; and
- 1628 (iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete
- 1629 meals;
- 1630 (B) has at least 1,000 square feet of function space consisting of meeting or dining
- 1631 rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or
- 1632 (C) if the establishment is located in a small or unincorporated locality, has an
- 1633 appropriate amount of function space consisting of meeting or dining rooms that can be
- 1634 reserved for private use under a banquet contract, as determined by the commission.
- 1635 (b) "Hotel" includes a commercial lodging establishment that:
- 1636 (i) meets the requirements under Subsection (53)(a); and
- 1637 (ii) has one or more privately owned dwelling units.
- 1638 (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail
- 1639 License Act, and Chapter 8b, Hotel License Act.
- 1640 (55) "Identification card" means an identification card issued under Title 53, Chapter 3,
- 1641 Part 8, Identification Card Act.
- 1642 (56) "Industry representative" means an individual who is compensated by salary,
- 1643 commission, or other means for representing and selling an alcoholic product of a
- 1644 manufacturer, supplier, or importer of liquor.

1645 (57) "Industry representative sample" means liquor that is placed in the possession of
1646 the department for testing, analysis, and sampling by a local industry representative on the
1647 premises of the department to educate the local industry representative of the quality and
1648 characteristics of the product.

1649 (58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
1650 of an alcoholic product is prohibited by:

1651 (a) law; or

1652 (b) court order.

1653 (59) "International airport" means an airport:

1654 (a) with a United States Customs and Border Protection office on the premises of the
1655 airport; and

1656 (b) at which international flights may enter and depart.

1657 (60) "Intoxicated" or "intoxication" means that

1658 an individual exhibits plain and easily observable outward manifestations of behavior
1659 or physical signs produced by or as a result of the use of:

1660 (a) an alcoholic product;

1661 (b) a controlled substance;

1662 (c) a substance having the property of releasing toxic vapors; or

1663 (d) a combination of products or substances described in Subsections (60)(a) through
1664 (c).

1665 (61) "Investigator" means an individual who is:

1666 (a) a department compliance officer; or

1667 (b) a nondepartment enforcement officer.

1668 (62) "License" means:

1669 (a) a retail license;

1670 (b) a sublicense;

1671 (c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer
1672 State License;

1673 (d) a license issued in accordance with Chapter 11, Manufacturing and Related
1674 Licenses Act;

1675 (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

- 1676 (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or
1677 (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.
1678 (63) "Licensee" means a person who holds a license.
- 1679 (64) "Limited-service restaurant license" means a license issued in accordance with
1680 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 1681 (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other
1682 than a bus or taxicab:
- 1683 (a) in which the driver and a passenger are separated by a partition, glass, or other
1684 barrier;
- 1685 (b) that is provided by a business entity to one or more individuals at a fixed charge in
1686 accordance with the business entity's tariff; and
- 1687 (c) to give the one or more individuals the exclusive use of the limousine and a driver
1688 to travel to one or more specified destinations.
- 1689 (66) (a) (i) "Liquor" means a liquid that:
- 1690 (A) is:
- 1691 (I) alcohol;
- 1692 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 1693 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
1694 (IV) other drink or drinkable liquid; and
- 1695 (B) (I) contains at least .5% alcohol by volume; and
1696 (II) is suitable to use for beverage purposes.
- 1697 (ii) "Liquor" includes:
- 1698 (A) heavy beer;
- 1699 (B) wine; and
1700 (C) a flavored malt beverage.
- 1701 (b) "Liquor" does not include beer.
- 1702 (67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.
- 1703 (68) "Liquor transport license" means a license issued in accordance with Chapter 17,
1704 Liquor Transport License Act.
- 1705 (69) "Liquor warehousing license" means a license that is issued:
- 1706 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

1707 (b) to a person, other than a licensed manufacturer, who engages in the importation for
1708 storage, sale, or distribution of liquor regardless of amount.

1709 (70) "Local authority" means:

1710 (a) for premises that are located in an unincorporated area of a county, the governing
1711 body of a county;

1712 (b) for premises that are located in an incorporated city, town, or metro township, the
1713 governing body of the city, town, or metro township; or

1714 (c) for premises that are located in a project area as defined in Section 63H-1-102 and
1715 in a project area plan adopted by the Military Installation Development Authority under Title
1716 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation
1717 Development Authority.

1718 (71) "Lounge or bar area" is as defined by rule made by the commission.

1719 (72) "Malt substitute" means:

1720 (a) rice;

1721 (b) grain;

1722 (c) bran;

1723 (d) glucose;

1724 (e) sugar; or

1725 (f) molasses.

1726 (73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
1727 otherwise make an alcoholic product for personal use or for sale or distribution to others.

1728 (74) "Member" means an individual who, after paying regular dues, has full privileges
1729 in an equity licensee or fraternal licensee.

1730 (75) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
1731 or homeport facility for a ship:

1732 (i) (A) under the control of the United States Department of Defense; or

1733 (B) of the National Guard;

1734 (ii) that is located within the state; and

1735 (iii) including a leased facility.

1736 (b) "Military installation" does not include a facility used primarily for:

1737 (i) civil works;

- 1738 (ii) a rivers and harbors project; or
1739 (iii) a flood control project.
- 1740 (76) "Minibar" means an area of a hotel guest room where one or more alcoholic
1741 products are kept and offered for self-service sale or consumption.
- 1742 (77) "Minor" means an individual under 21 years old.
- 1743 (78) "Nondepartment enforcement agency" means an agency that:
1744 (a) (i) is a state agency other than the department; or
1745 (ii) is an agency of a county, city, town, or metro township; and
1746 (b) has a responsibility to enforce one or more provisions of this title.
- 1747 (79) "Nondepartment enforcement officer" means an individual who is:
1748 (a) a peace officer, examiner, or investigator; and
1749 (b) employed by a nondepartment enforcement agency.
- 1750 (80) (a) "Off-premise beer retailer" means a beer retailer who is:
1751 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
1752 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
1753 premises.
- 1754 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 1755 (81) "Off-premise beer retailer state license" means a state license issued in accordance
1756 with Chapter 7, Part 4, Off-premise Beer Retailer State License.
- 1757 (82) "On-premise banquet license" means a license issued in accordance with Chapter
1758 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 1759 (83) "On-premise beer retailer" means a beer retailer who is:
1760 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
1761 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
1762 Retailer License; and
1763 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
1764 premises:
1765 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
1766 premises; and
1767 (ii) on and after March 1, 2012, operating:
1768 (A) as a tavern; or

- 1769 (B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).
- 1770 (84) "Opaque" means impenetrable to sight.
- 1771 (85) "Package agency" means a retail liquor location operated:
- 1772 (a) under an agreement with the department; and
- 1773 (b) by a person:
- 1774 (i) other than the state; and
- 1775 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 1776 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 1777 (86) "Package agent" means a person who holds a package agency.
- 1778 (87) "Patron" means an individual to whom food, beverages, or services are sold,
- 1779 offered for sale, or furnished, or who consumes an alcoholic product including:
- 1780 (a) a customer;
- 1781 (b) a member;
- 1782 (c) a guest;
- 1783 (d) an attendee of a banquet or event;
- 1784 (e) an individual who receives room service;
- 1785 (f) a resident of a resort; or
- 1786 (g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity
- 1787 license.
- 1788 (88) (a) "Performing arts facility" means a multi-use performance space that:
- 1789 (i) is primarily used to present various types of performing arts, including dance,
- 1790 music, and theater;
- 1791 (ii) contains over 2,500 seats;
- 1792 (iii) is owned and operated by a governmental entity; and
- 1793 (iv) is located in a city of the first class.
- 1794 (b) "Performing arts facility" does not include a space that is used to present sporting
- 1795 events or sporting competitions.
- 1796 (89) "Permittee" means a person issued a permit under:
- 1797 (a) Chapter 9, Event Permit Act; or
- 1798 (b) Chapter 10, Special Use Permit Act.
- 1799 (90) "Person subject to administrative action" means:

- 1800 (a) a licensee;
- 1801 (b) a permittee;
- 1802 (c) a manufacturer;
- 1803 (d) a supplier;
- 1804 (e) an importer;
- 1805 (f) one of the following holding a certificate of approval:
- 1806 (i) an out-of-state brewer;
- 1807 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 1808 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 1809 (g) staff of:
- 1810 (i) a person listed in Subsections (90)(a) through (f); or
- 1811 (ii) a package agent.
- 1812 (91) "Premises" means a building, enclosure, or room used in connection with the
- 1813 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 1814 unless otherwise defined in this title or rules made by the commission.
- 1815 (92) "Prescription" means an order issued by a health care practitioner when:
- 1816 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 1817 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 1818 (b) the order is made in the course of that health care practitioner's professional
- 1819 practice; and
- 1820 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1821 (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1822 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1823 (94) "Principal license" means:
- 1824 (a) a resort license;
- 1825 (b) a hotel license; or
- 1826 (c) an arena license.
- 1827 (95) (a) "Private event" means a specific social, business, or recreational event:
- 1828 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 1829 group; and
- 1830 (ii) that is limited in attendance to people who are specifically designated and their

1831 guests.

1832 (b) "Private event" does not include an event to which the general public is invited,
1833 whether for an admission fee or not.

1834 (96) "Privately sponsored event" means a specific social, business, or recreational
1835 event:

1836 (a) that is held in or on the premises of an on-premise banquet licensee; and
1837 (b) to which entry is restricted by an admission fee.

1838 (97) (a) "Proof of age" means:

1839 (i) an identification card;
1840 (ii) an identification that:
1841 (A) is substantially similar to an identification card;
1842 (B) is issued in accordance with the laws of a state other than Utah in which the
1843 identification is issued;
1844 (C) includes date of birth; and
1845 (D) has a picture affixed;
1846 (iii) a valid driver license certificate that:
1847 (A) includes date of birth;
1848 (B) has a picture affixed; and
1849 (C) is issued[?]
1850 [(H)] under Title 53, Chapter 3, Uniform Driver License Act[?],
1851 [(H)] in accordance with the laws of the state in which it is issued[?], or
1852 [(H)] in accordance with federal law by the United States Department of State;
1853 (iv) a military identification card that:
1854 (A) includes date of birth; and
1855 (B) has a picture affixed; or
1856 (v) a valid passport.

1857 (b) "Proof of age" does not include a driving privilege card issued in accordance with
1858 Section 53-3-207.

1859 (98) "Provisions applicable to a sublicense" means:
1860 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service
1861 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

- 1862 (b) for a limited-service restaurant sublicense, the provisions applicable to a
1863 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;
- 1864 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment
1865 license under Chapter 6, Part 4, Bar Establishment License;
- 1866 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
1867 banquet license under Chapter 6, Part 6, On-Premise Banquet License;
- 1868 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
1869 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;
- 1870 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
1871 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;
- 1872 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
1873 license under Chapter 6, Part 10, Hospitality Amenity License; and
- 1874 (h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d,
1875 Part 2, Resort Spa Sublicense.
- 1876 (99) (a) "Public building" means a building or permanent structure that is:
- 1877 (i) owned or leased by:
- 1878 (A) the state; or
- 1879 (B) a local government entity; and
- 1880 (ii) used for:
- 1881 (A) public education;
- 1882 (B) transacting public business; or
- 1883 (C) regularly conducting government activities.
- 1884 (b) "Public building" does not include a building owned by the state or a local
1885 government entity when the building is used by a person, in whole or in part, for a proprietary
1886 function.
- 1887 (100) "Public conveyance" means a conveyance that the public or a portion of the
1888 public has access to and a right to use for transportation, including an airline, railroad, bus,
1889 boat, or other public conveyance.
- 1890 (101) "Reception center" means a business that:
- 1891 (a) operates facilities that are at least 5,000 square feet; and
- 1892 (b) has as its primary purpose the leasing of the facilities described in Subsection

- 1893 (101)(a) to a third party for the third party's event.
- 1894 (102) "Reception center license" means a license issued in accordance with Chapter 5,
1895 Retail License Act, and Chapter 6, Part 8, Reception Center License.
- 1896 (103) (a) "Record" means information that is:
- 1897 (i) inscribed on a tangible medium; or
- 1898 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.
- 1899 (b) "Record" includes:
- 1900 (i) a book;
- 1901 (ii) a book of account;
- 1902 (iii) a paper;
- 1903 (iv) a contract;
- 1904 (v) an agreement;
- 1905 (vi) a document; or
- 1906 (vii) a recording in any medium.
- 1907 (104) "Residence" means a person's principal place of abode within Utah.
- 1908 (105) "Resident," in relation to a resort, means the same as that term is defined in
1909 Section 32B-8-102.
- 1910 (106) "Resort" means the same as that term is defined in Section 32B-8-102.
- 1911 (107) "Resort facility" is as defined by the commission by rule.
- 1912 (108) "Resort license" means a license issued in accordance with Chapter 5, Retail
1913 License Act, and Chapter 8, Resort License Act.
- 1914 (109) "Responsible alcohol service plan" means a written set of policies and
1915 procedures that outlines measures to prevent employees from:
- 1916 (a) over-serving alcoholic beverages to customers;
- 1917 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
1918 intoxicated; and
- 1919 (c) serving alcoholic beverages to minors.
- 1920 (110) "Restaurant" means a business location:
- 1921 (a) at which a variety of foods are prepared;
- 1922 (b) at which complete meals are served; and
- 1923 (c) that is engaged primarily in serving meals.

- 1924 (111) "Restaurant license" means one of the following licenses issued under this title:
- 1925 (a) a full-service restaurant license;
- 1926 (b) a limited-service restaurant license; or
- 1927 (c) a beer-only restaurant license.
- 1928 (112) "Restaurant venue" means a room within a restaurant that:
- 1929 (a) is located on the licensed premises of a restaurant licensee;
- 1930 (b) is separated from the area within the restaurant for a patron's consumption of food
- 1931 by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a
- 1932 patron in the area within the restaurant for a patron's consumption of food; and
- 1933 (c) (i) has at least 1,000 square feet that:
- 1934 (A) may be reserved for a banquet; and
- 1935 (B) accommodates at least 75 individuals; or
- 1936 (ii) if the restaurant is located in a small or unincorporated locality, has an appropriate
- 1937 amount of space, as determined by the commission, that may be reserved for a banquet.
- 1938 (113) "Retail license" means one of the following licenses issued under this title:
- 1939 (a) a full-service restaurant license;
- 1940 (b) a master full-service restaurant license;
- 1941 (c) a limited-service restaurant license;
- 1942 (d) a master limited-service restaurant license;
- 1943 (e) a bar establishment license;
- 1944 (f) an airport lounge license;
- 1945 (g) an on-premise banquet license;
- 1946 (h) an on-premise beer license;
- 1947 (i) a reception center license;
- 1948 (j) a beer-only restaurant license;
- 1949 (k) a hospitality amenity license;
- 1950 (l) a resort license;
- 1951 (m) a hotel license; or
- 1952 (n) an arena license.
- 1953 (114) "Room service" means furnishing an alcoholic product to a person in a guest
- 1954 room or privately owned dwelling unit of a:

- 1955 (a) hotel; or
- 1956 (b) resort facility.
- 1957 (115) (a) "School" means a building in which any part is used for more than three
- 1958 hours each weekday during a school year as a public or private:
- 1959 (i) elementary school;
- 1960 (ii) secondary school; or
- 1961 (iii) kindergarten.
- 1962 (b) "School" does not include:
- 1963 (i) a nursery school;
- 1964 (ii) a day care center;
- 1965 (iii) a trade and technical school;
- 1966 (iv) a preschool; [or]
- 1967 (v) a home school[-];
- 1968 (vi) a home-based education entity as defined in Section 53G-6-201; or
- 1969 (vii) a micro-education entity as defined in Section 53G-6-201.
- 1970 (116) "Secondary flavoring ingredient" means any spirituous liquor added to a
- 1971 beverage for additional flavoring that is different in type, flavor, or brand from the primary
- 1972 spirituous liquor in the beverage.
- 1973 (117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
- 1974 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
- 1975 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
- 1976 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
- 1977 made by the commission.
- 1978 (118) "Serve" means to place an alcoholic product before an individual.
- 1979 (119) "Sexually oriented entertainer" means a person who while in a state of
- 1980 seminudity appears at or performs:
- 1981 (a) for the entertainment of one or more patrons;
- 1982 (b) on the premises of:
- 1983 (i) a bar licensee; or
- 1984 (ii) a tavern;
- 1985 (c) on behalf of or at the request of the licensee described in Subsection (119)(b);

- 1986 (d) on a contractual or voluntary basis; and
- 1987 (e) whether or not the person is designated as:
- 1988 (i) an employee;
- 1989 (ii) an independent contractor;
- 1990 (iii) an agent of the licensee; or
- 1991 (iv) a different type of classification.
- 1992 (120) "Shared seating area" means the licensed premises of two or more restaurant
- 1993 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in
- 1994 accordance with Subsection 32B-5-207(3).
- 1995 (121) "Single event permit" means a permit issued in accordance with Chapter 9, Part
- 1996 3, Single Event Permit.
- 1997 (122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
- 1998 beer, heavy beer, and flavored malt beverage per year, as the department calculates by:
- 1999 (a) if the brewer is part of a controlled group of manufacturers, including the combined
- 2000 volume totals of production for all breweries that constitute the controlled group of
- 2001 manufacturers; and
- 2002 (b) excluding beer, heavy beer, or flavored malt beverage the brewer:
- 2003 (i) manufactures that is unfit for consumption as, or in, a beverage, as the commission
- 2004 determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 2005 Rulemaking Act; and
- 2006 (ii) does not sell for consumption as, or in, a beverage.
- 2007 (123) "Small or unincorporated locality" means:
- 2008 (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;
- 2009 (b) a town, as classified under Section 10-2-301; or
- 2010 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified
- 2011 under Section 17-50-501.
- 2012 (124) "Spa sublicense" means a sublicense:
- 2013 (a) to a resort license or hotel license; and
- 2014 (b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa
- 2015 Sublicense.
- 2016 (125) "Special use permit" means a permit issued in accordance with Chapter 10,

- 2017 Special Use Permit Act.
- 2018 (126) (a) "Spirituous liquor" means liquor that is distilled.
- 2019 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
- 2020 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.
- 2021 (127) "Sports center" is as defined by the commission by rule.
- 2022 (128) (a) "Staff" means an individual who engages in activity governed by this title:
- 2023 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
- 2024 holder;
- 2025 (ii) at the request of the business, including a package agent, licensee, permittee, or
- 2026 certificate holder; or
- 2027 (iii) under the authority of the business, including a package agent, licensee, permittee,
- 2028 or certificate holder.
- 2029 (b) "Staff" includes:
- 2030 (i) an officer;
- 2031 (ii) a director;
- 2032 (iii) an employee;
- 2033 (iv) personnel management;
- 2034 (v) an agent of the licensee, including a managing agent;
- 2035 (vi) an operator; or
- 2036 (vii) a representative.
- 2037 (129) "State of nudity" means:
- 2038 (a) the appearance of:
- 2039 (i) the nipple or areola of a female human breast;
- 2040 (ii) a human genital;
- 2041 (iii) a human pubic area; or
- 2042 (iv) a human anus; or
- 2043 (b) a state of dress that fails to opaquely cover:
- 2044 (i) the nipple or areola of a female human breast;
- 2045 (ii) a human genital;
- 2046 (iii) a human pubic area; or
- 2047 (iv) a human anus.

- 2048 (130) "State of seminudity" means a state of dress in which opaque clothing covers no
2049 more than:
- 2050 (a) the nipple and areola of the female human breast in a shape and color other than the
2051 natural shape and color of the nipple and areola; and
- 2052 (b) the human genitals, pubic area, and anus:
- 2053 (i) with no less than the following at its widest point:
- 2054 (A) four inches coverage width in the front of the human body; and
- 2055 (B) five inches coverage width in the back of the human body; and
- 2056 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 2057 (131) (a) "State store" means a facility for the sale of packaged liquor:
- 2058 (i) located on premises owned or leased by the state; and
- 2059 (ii) operated by a state employee.
- 2060 (b) "State store" does not include:
- 2061 (i) a package agency;
- 2062 (ii) a licensee; or
- 2063 (iii) a permittee.
- 2064 (132) (a) "Storage area" means an area on licensed premises where the licensee stores
2065 an alcoholic product.
- 2066 (b) "Store" means to place or maintain in a location an alcoholic product.
- 2067 (133) "Sublicense" means:
- 2068 (a) any of the following licenses issued as a subordinate license to, and contingent on
2069 the issuance of, a principal license:
- 2070 (i) a full-service restaurant license;
- 2071 (ii) a limited-service restaurant license;
- 2072 (iii) a bar establishment license;
- 2073 (iv) an on-premise banquet license;
- 2074 (v) an on-premise beer retailer license;
- 2075 (vi) a beer-only restaurant license; or
- 2076 (vii) a hospitality amenity license; or
- 2077 (b) a spa sublicense.
- 2078 (134) "Supplier" means a person who sells an alcoholic product to the department.

- 2079 (135) "Tavern" means an on-premise beer retailer who is:
2080 (a) issued a license by the commission in accordance with Chapter 5, Retail License
2081 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
2082 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
2083 On-Premise Beer Retailer License.
- 2084 (136) "Temporary beer event permit" means a permit issued in accordance with
2085 Chapter 9, Part 4, Temporary Beer Event Permit.
- 2086 (137) "Temporary domicile" means the principal place of abode within Utah of a
2087 person who does not have a present intention to continue residency within Utah permanently or
2088 indefinitely.
- 2089 (138) "Translucent" means a substance that allows light to pass through, but does not
2090 allow an object or person to be seen through the substance.
- 2091 (139) "Unsaleable liquor merchandise" means a container that:
2092 (a) is unsaleable because the container is:
2093 (i) unlabeled;
2094 (ii) leaky;
2095 (iii) damaged;
2096 (iv) difficult to open; or
2097 (v) partly filled;
2098 (b) (i) has faded labels or defective caps or corks;
2099 (ii) has contents that are:
2100 (A) cloudy;
2101 (B) spoiled; or
2102 (C) chemically determined to be impure; or
2103 (iii) contains:
2104 (A) sediment; or
2105 (B) a foreign substance; or
2106 (c) is otherwise considered by the department as unfit for sale.
- 2107 (140) (a) "Wine" means an alcoholic product obtained by the fermentation of the
2108 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
2109 another ingredient is added.

2110 (b) "Wine" includes:

2111 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
2112 4.10; and

2113 (ii) hard cider.

2114 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
2115 in this title.

2116 (141) "Winery manufacturing license" means a license issued in accordance with
2117 Chapter 11, Part 3, Winery Manufacturing License.

2118 Section 7. Section **53G-6-201** is amended to read:

2119 **53G-6-201. Definitions.**

2120 As used in this part:

2121 (1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class
2122 or class period to attend a class or class period.

2123 (b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence
2124 for the sake of a truancy.

2125 (2) "Education cooperative" means two or more families jointly providing education
2126 services to school-age children.

2127 [~~2~~] (3) "Educational neglect" means the same as that term is defined in Section
2128 80-1-102.

2129 (4) "Extracurricular lessons" means the provision of educational services or
2130 experiences beyond traditional academic instruction.

2131 (5) (a) "Home-based education entity" means an individual or association of
2132 individuals that, for compensation, provides kindergarten through grade 12 education services
2133 to 16 or fewer students from an individual's residential dwelling, accessory dwelling unit, or
2134 residential property.

2135 (b) "Home-based education entity" includes:

2136 (i) a tutoring service;

2137 (ii) an education cooperative; and

2138 (iii) an entity that provides extracurricular lessons.

2139 (c) "Home-based education entity" does not include:

2140 (i) a daycare; or

- 2141 (ii) a family that has filed an affidavit for a child under Section 53G-6-204.
- 2142 (6) "Instructor" means an individual who teaches a student as part of a home-based
- 2143 education entity or micro-education entity.
- 2144 (7) (a) "Micro-education entity" means a person or association of persons that, for
- 2145 compensation, provides kindergarten through grade 12 education services to 100 students or
- 2146 fewer.
- 2147 (b) "Micro-education entity" does not include:
- 2148 (i) a daycare;
- 2149 (ii) a family that has filed an affidavit for a child pursuant to Section 53G-6-204;
- 2150 (iii) a home-based education entity;
- 2151 (iv) a private school; or
- 2152 (v) a school within the public education system.
- 2153 ~~[(3)]~~ (8) "Minor" means an individual who is under 18 years old.
- 2154 ~~[(4)]~~ (9) "Parent" includes:
- 2155 (a) a custodial parent of the minor;
- 2156 (b) a legally appointed guardian of a minor; or
- 2157 (c) any other person purporting to exercise any authority over the minor which could be
- 2158 exercised by a person described in Subsection ~~[(4)]~~ (9)(a) or (b).
- 2159 ~~[(5)]~~ (10) "School day" means the portion of a day that school is in session in which a
- 2160 school-age child is required to be in school for purposes of receiving instruction.
- 2161 ~~[(6)]~~ (11) "School year" means the period of time designated by a local school board or
- 2162 charter school governing board as the school year for the school where the school-age child:
- 2163 (a) is enrolled; or
- 2164 (b) should be enrolled, if the school-age child is not enrolled in school.
- 2165 ~~[(7)]~~ (12) "School-age child" means a minor who:
- 2166 (a) is at least six years old but younger than 18 years old; and
- 2167 (b) is not emancipated.
- 2168 ~~[(8)]~~ (13) (a) "Truant" means a condition in which a school-age child, without a valid
- 2169 excuse, and subject to Subsection ~~[(8)]~~ (13)(b), is absent for at least:
- 2170 (i) half of the school day; or
- 2171 (ii) if the school-age child is enrolled in a learner verified program, as that term is

2172 defined by the state board, the relevant amount of time under the LEA's policy regarding the
2173 LEA's continuing enrollment measure as it relates to truancy.

2174 (b) A school-age child may not be considered truant under this part more than one time
2175 during one day.

2176 ~~[(9)]~~ (14) "Truant minor" means a school-age child who:

2177 (a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

2178 (b) is truant.

2179 ~~[(10)]~~ (15) (a) "Valid excuse" means:

2180 (i) an illness, which may be either mental or physical, regardless of whether the
2181 school-age child or parent provides documentation from a medical professional;

2182 (ii) mental or behavioral health of the school-age child;

2183 (iii) a family death;

2184 (iv) an approved school activity;

2185 (v) an absence permitted by a school-age child's:

2186 (A) individualized education program; or

2187 (B) Section 504 accommodation plan;

2188 (vi) an absence permitted in accordance with Subsection 53G-6-803(5); or

2189 (vii) any other excuse established as valid by a local school board, charter school
2190 governing board, or school district.

2191 (b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason

2192 other than a reason described in Subsections ~~[(10)(a)(i)]~~ (15)(a)(i) through (vi), unless

2193 specifically permitted by the local school board, charter school governing board, or school

2194 district under Subsection ~~[(10)(a)(vi)]~~ (15)(a)(vi).

2195 Section 8. Section **53G-6-204** is amended to read:

2196 **53G-6-204. School-age children exempt from school attendance.**

2197 (1) (a) A local school board or charter school governing board may excuse a school-age
2198 child from attendance for any of the following reasons:

2199 (i) a school-age child over ~~[age 16]~~ 16 years old may receive a partial release from
2200 school to enter employment, or attend a trade school, if the school-age child has completed
2201 grade 8; or

2202 (ii) on an annual basis, a school-age child may receive a full release from attending a

2203 public, regularly established private, or part-time school or class if:

2204 (A) the school-age child has already completed the work required for graduation from
2205 high school;

2206 (B) the school-age child is in a physical or mental condition, certified by a competent
2207 physician if required by the local school board or charter school governing board, which
2208 renders attendance inexpedient and impracticable;

2209 (C) proper influences and adequate opportunities for education are provided in
2210 connection with the school-age child's employment; or

2211 (D) the district superintendent or charter school governing board has determined that a
2212 school-age child over [~~the age of 16~~] 16 years old is unable to profit from attendance at school
2213 because of inability or a continuing negative attitude toward school regulations and discipline.

2214 (b) A school-age child receiving a partial release from school under Subsection
2215 (1)(a)(i) is required to attend:

2216 (i) school part time as prescribed by the local school board or charter school governing
2217 board; or

2218 (ii) a home school part time.

2219 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
2220 must be sufficient to satisfy the local school board or charter school governing board.

2221 (d) A local school board or charter school governing board that excuses a school-age
2222 child from attendance as provided by this Subsection (1) shall issue a certificate that the child
2223 is excused from attendance during the time specified on the certificate.

2224 (2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or
2225 attempted felony offense of which an individual is convicted, or to which an individual pleads
2226 guilty or no contest, for conduct that constitutes any of the following:

2227 (A) child abuse under Section 76-5-109;

2228 (B) aggravated child abuse under Section 76-5-109.2;

2229 (C) child abandonment under Section 76-5-109.3;

2230 (D) commission of domestic violence in the presence of a child under Section
2231 76-5-114;

2232 (E) child abuse homicide under Section 76-5-208;

2233 (F) child kidnapping under Section 76-5-301.1;

- 2234 (G) human trafficking of a child under Section 76-5-308.5;
- 2235 (H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76,
2236 Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;
- 2237 (I) sexual exploitation of a minor under Section 76-5b-201;
- 2238 (J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or
- 2239 (K) an offense in another state that, if committed in this state, would constitute an
2240 offense described in this Subsection (2)(a)(i).
- 2241 (ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a
2242 school-age child from attendance, if the school-age child's parent or legal guardian files a
2243 signed and notarized affidavit with the school-age child's school district of residence, as
2244 defined in Section 53G-6-302, that:
- 2245 (A) the school-age child will attend a home school, home-based education entity, or
2246 micro-education entity; and
- 2247 (B) the parent or legal guardian assumes sole responsibility for the education of the
2248 school-age child, except to the extent the school-age child is dual enrolled in a public school as
2249 provided in Section 53G-6-702.
- 2250 (iii) If a parent or legal guardian has been convicted of child abuse or if a court of
2251 competent jurisdiction has made a substantiated finding of child abuse against the parent or
2252 legal guardian:
- 2253 (A) the parent or legal guardian may not assume responsibility for the education of a
2254 school-age child under Subsection (2)(a)(ii); and
- 2255 (B) the local school board may not accept the affidavit described in Subsection
2256 (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from
2257 attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to
2258 home school the child.
- 2259 (iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents
2260 or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit
2261 described in Subsection (2)(a)(ii).
- 2262 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall
2263 remain in effect as long as:
- 2264 (i) the school-age child attends a home school, home-based education entity, or

2265 micro-education entity;

2266 (ii) the school district where the affidavit was filed remains the school-age child's
2267 district of residence; and

2268 (iii) the parent or legal guardian who filed the signed and notarized affidavit has not
2269 been convicted of child abuse or been the subject of a substantiated finding of child abuse by a
2270 court of competent jurisdiction.

2271 (c) A parent [or], legal guardian, or instructor of a school-age child who attends a home
2272 school, home-based education entity, or micro-education entity is solely responsible for:

2273 (i) the selection of instructional materials and textbooks;

2274 (ii) the time, place, and method of instruction; and

2275 (iii) the evaluation of the home school instruction.

2276 (d) A local school board may not:

2277 (i) require a parent or legal guardian of a school-age child who attends a home school,
2278 home-based education entity, or micro-education entity to maintain records of instruction or
2279 attendance;

2280 (ii) require credentials for individuals providing home school, home-based education
2281 entity, or micro-education entity instruction;

2282 (iii) inspect home school, home-based education entity, or micro-education entity
2283 facilities except as provided in Section 53G-6-212; or

2284 (iv) require standardized or other testing of home school, home-based education entity,
2285 or micro-education entity students.

2286 (e) Upon the request of a parent or legal guardian, a local school board shall identify
2287 the knowledge, skills, and competencies a student is recommended to attain by grade level and
2288 subject area to assist the parent [or], legal guardian, or instructor in achieving college and
2289 career readiness through [~~home schooling~~] schooling at a home school, home-based education
2290 entity, or micro-education entity.

2291 (f) A local school board that excuses a school-age child from attendance under this
2292 Subsection (2) shall annually issue a certificate stating that the school-age child is excused
2293 from attendance for the specified school year.

2294 (g) A local school board shall issue a certificate excusing a school-age child from
2295 attendance:

2296 (i) within 30 days after receipt of a signed and notarized affidavit filed by the
2297 school-age child's parent or legal guardian under this Subsection (2); and

2298 (ii) on or before August 1 each year thereafter unless:

2299 (A) the school-age child enrolls in a school within the school district;

2300 (B) the school-age child's parent or legal guardian notifies the school district that the
2301 school-age child no longer attends a home school; or

2302 (C) the school-age child's parent or legal guardian notifies the school district that the
2303 school-age child's school district of residence has changed.

2304 (3) A parent or legal guardian who is eligible to file and files a signed and notarized
2305 affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2),
2306 (5), and (6).

2307 (4) (a) Nothing in this section may be construed to prohibit or discourage voluntary
2308 cooperation, resource sharing, or testing opportunities between a school or school district and a
2309 parent or legal guardian of a child attending a home school, home-based education entity, or
2310 micro-education entity.

2311 (b) The exemptions in this section apply regardless of whether:

2312 (i) a parent or legal guardian provides education instruction to the parent's or legal
2313 guardian's child alone or in cooperation with other parents or legal guardians similarly
2314 exempted under this section; or

2315 (ii) the parent or legal guardian makes payment for educational services the parent's or
2316 legal guardian's child receives.

2317 Section 9. Section **53G-6-212** is enacted to read:

2318 **53G-6-212. Home-based education entity and micro-education entity waivers and**
2319 **exemptions.**

2320 (1) A home-based education entity or micro-education entity:

2321 (a) may form to provide education services to school-age children; and

2322 (b) is not an LEA, a public school, or otherwise a part of the public education system.

2323 (2) A local health department may not require a home-based education entity or
2324 micro-education entity to obtain a food establishment permit or undergo an inspection in order
2325 to prepare or provide food if staff of the home-based education entity or micro-education entity
2326 does not prepare and serve food.

2327 Section 10. Section **53G-6-702** is amended to read:

2328 **53G-6-702. Dual enrollment.**

2329 (1) As used in this section, "minor" means the same as that term is defined in Section
2330 53G-6-201.

2331 (2) A person having control of a minor who is enrolled in a regularly established
2332 private school, home-based education entity, micro-education entity, or [a] home school may
2333 also enroll the minor in a public school for dual enrollment purposes.

2334 (3) The minor may participate in any academic activity in the public school available to
2335 students in the minor's grade or age group, subject to compliance with the same rules and
2336 requirements that apply to a full-time student's participation in the activity.

2337 (4) (a) A student enrolled in a dual enrollment program in a district school is
2338 considered a student of the district in which the district school of attendance is located for
2339 purposes of state funding to the extent of the student's participation in the district school
2340 programs.

2341 (b) A student enrolled in a dual enrollment program in a charter school is considered a
2342 student of the charter school for purposes of state funding to the extent of the student's
2343 participation in the charter school programs.

2344 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2345 state board shall make rules for purposes of dual enrollment to govern and regulate the
2346 transferability of credits toward graduation that are earned in a private school, home-based
2347 education entity, micro-education entity, or home school.

2348 Section 11. Section **53G-6-703** is amended to read:

2349 **53G-6-703. Private school, home school, home-based education entity, and**
2350 **micro-education entity students' participation in extracurricular activities in a public**
2351 **school.**

2352 (1) As used in this section:

2353 (a) "Academic eligibility requirements" means the academic eligibility requirements
2354 that a home school student is required to meet to participate in an extracurricular activity in a
2355 public school.

2356 (b) "Association" means the same as that term is defined in Section 53G-7-1101.

2357 (c) "Extracurricular activity" means the same as that term is defined in Section

2358 53G-7-501.

2359 (d) "Initial establishment of eligibility requirements" means an association's eligibility
2360 requirements, policies, procedures, and transfer rules that a school student in grade 9 or 10
2361 must meet, and to which the student is bound, to participate on a high school sports team when
2362 the student:

2363 (i) attends the high school in which the student is selected for membership on a high
2364 school sports team; or

2365 (ii) does not attend the high school in which the student tries out for and is selected for
2366 membership on a high school sports team.

2367 (e) "Minor" means the same as that term is defined in Section 53G-6-201.

2368 (f) "Parent" means the same as that term is defined in Section 53G-6-201.

2369 (g) "Principal" means the principal of the school in which a home school student
2370 participates or intends to participate in an extracurricular activity.

2371 (2) (a) A minor who is enrolled in a private school [or], a home school, a home-based
2372 education entity, or a micro-education entity is eligible to participate in an extracurricular
2373 activity at a public school as provided in this section.

2374 (b) A private school student may only participate in an extracurricular activity at a
2375 public school that is not offered by the student's private school.

2376 (c) (i) Except as provided in Subsection (2)(d), a private school student [or], a home
2377 school student, a home-based education entity student, or a micro-education entity student may
2378 only participate in an extracurricular activity at:

2379 (A) the school with attendance boundaries within which the student's custodial parent
2380 resides; or

2381 (B) the school from which the student withdrew for the purpose of attending a private
2382 [or], home school, home-based education entity, or micro-education entity.

2383 (ii) A private school student [or], a home school student, a home-based education
2384 entity student, or a micro-education entity student retains the ability to participate in an
2385 extracurricular activity at a school described in Subsection (2)(c)(i) if the student did not
2386 initially establish the student's eligibility at another school in grade 9 or 10.

2387 (d) A school other than a school described in Subsection (2)(c)(i) may allow a private
2388 school student [or], a home school student, a home-based education entity student, or a

2389 micro-education entity student to participate in an extracurricular activity that the public school
2390 sponsors and supports if:

2391 (i) for an interscholastic competition of athletic teams, the private school student [~~or~~],
2392 the home school student, the home-based education entity student, or the micro-education
2393 entity student meets the initial establishment of eligibility requirements;

2394 (ii) for an interscholastic contest or competition for music, drama, or forensic groups or
2395 teams, the private school student, subject to Subsection (2)(b), [~~or~~] the home school student,
2396 the home-based education entity student, or the micro-education entity student meets the entry
2397 requirements for participation;

2398 (iii) the private school student [~~or~~], the home school student, the home-based education
2399 entity student, or the micro-education entity student meets the eligibility requirements under
2400 this section; and

2401 (iv) the private school student [~~or~~], the home school student, the home-based education
2402 entity student, or the micro-education entity meets the enrollment requirements for public
2403 school in accordance with Part 4, School District Enrollment.

2404 (3) (a) Except as provided in Subsections (4) through (13), a private school student or a
2405 home school student is eligible to participate in an extracurricular activity at a public school
2406 consistent with eligibility standards:

2407 (i) applied to a fully enrolled public school student;

2408 (ii) of the public school where the private school student or the home school student
2409 participates in an extracurricular activity; and

2410 (iii) for the extracurricular activity in which the private school or the home school
2411 student participates.

2412 (b) A school district or public school may not impose additional requirements on a
2413 private school student or a home school student to participate in an extracurricular activity that
2414 are not imposed on a fully enrolled public school student.

2415 (c) (i) A private school student or a home school student who participates in an
2416 extracurricular activity at a public school shall pay the same fees as required of a fully enrolled
2417 public school student to participate in an extracurricular activity.

2418 (ii) If a local school board or a charter school governing board imposes a mandatory
2419 student activity fee for a student enrolled in a public school, the fee may be imposed on a

2420 private school student or a home school student who participates in an extracurricular activity
2421 at the public school if the same benefits of paying the mandatory student activity fee that are
2422 available to a fully enrolled public school student are available to a private school student or a
2423 home school student who participates in an extracurricular activity at the public school.

2424 (4) Eligibility requirements based on school attendance are not applicable to a home
2425 school student.

2426 (5) A home school student meets academic eligibility requirements to participate in an
2427 extracurricular activity if:

2428 (a) the student is mastering the material in each course or subject being taught; and

2429 (b) the student is maintaining satisfactory progress towards achievement or promotion.

2430 (6) (a) To establish a home school student's academic eligibility, a parent, teacher, or
2431 organization providing instruction to the student shall submit an affidavit to the principal
2432 indicating the student meets academic eligibility requirements.

2433 (b) Upon submission of an affidavit pursuant to Subsection (6)(a), a home school
2434 student shall:

2435 (i) be considered to meet academic eligibility requirements; and

2436 (ii) retain academic eligibility for all extracurricular activities during the activity season
2437 for which the affidavit is submitted, until:

2438 (A) a panel established under Subsection (10) determines the home school student does
2439 not meet academic eligibility requirements; or

2440 (B) the person who submitted the affidavit under Subsection (6)(a) provides written
2441 notice to the school principal that the student no longer meets academic eligibility
2442 requirements.

2443 (7) (a) A home school student who loses academic eligibility pursuant to Subsection
2444 (6)(b)(ii)(B) may not participate in an extracurricular activity until the person who submitted
2445 the affidavit under Subsection (6)(a) provides written notice to the school principal that the
2446 home school student has reestablished academic eligibility.

2447 (b) If a home school student reestablishes academic eligibility pursuant to Subsection
2448 (7)(a), the home school student may participate in extracurricular activities for the remainder of
2449 the activity season for which an affidavit was submitted under Subsection (6)(a).

2450 (8) A person who has probable cause to believe a home school student does not meet

2451 academic eligibility requirements may submit an affidavit to the principal:

2452 (a) asserting the home school student does not meet academic eligibility requirements;

2453 and

2454 (b) providing information indicating that the home school student does not meet the

2455 academic eligibility requirements.

2456 (9) A principal shall review the affidavit submitted under Subsection (8), and if the

2457 principal determines it contains information which constitutes probable cause to believe a

2458 home school student may not meet academic eligibility requirements, the principal shall

2459 request a panel established pursuant to Subsection (10) to verify the student's compliance with

2460 academic eligibility requirements.

2461 (10) (a) A school district superintendent shall:

2462 (i) appoint a panel of three individuals to verify a home school student's compliance

2463 with academic eligibility requirements when requested by a principal pursuant to Subsection

2464 (9); and

2465 (ii) select the panel members from nominees submitted by national, state, or regional

2466 organizations whose members are home school students and parents.

2467 (b) Of the members appointed to a panel under Subsection (10)(a):

2468 (i) one member shall have experience teaching in a public school as a licensed teacher

2469 and in home schooling high school-age students;

2470 (ii) one member shall have experience teaching in a higher education institution and in

2471 home schooling; and

2472 (iii) one member shall have experience in home schooling high school-age students.

2473 (11) A panel appointed under Subsection (10):

2474 (a) shall review the affidavit submitted under Subsection (8);

2475 (b) may confer with the person who submitted the affidavit under Subsection (8);

2476 (c) shall request the home school student to submit test scores or a portfolio of work

2477 documenting the student's academic achievement to the panel;

2478 (d) shall review the test scores or portfolio of work; and

2479 (e) shall determine whether the home school student meets academic eligibility

2480 requirements.

2481 (12) A home school student who meets academic eligibility requirements pursuant to

2482 Subsection (11), retains academic eligibility for all extracurricular activities during the activity
2483 season for which an affidavit is submitted pursuant to Subsection (6).

2484 (13) (a) A panel's determination that a home school student does not comply with
2485 academic eligibility requirements is effective for an activity season and all extracurricular
2486 activities that have academic eligibility requirements.

2487 (b) A home school student who is not in compliance with academic eligibility
2488 requirements as determined by a panel appointed under Subsection (11) may seek to establish
2489 academic eligibility under this section for the next activity season.

2490 (14) (a) A public school student who has been declared to be academically ineligible to
2491 participate in an extracurricular activity and who subsequently enrolls in a home school shall
2492 lose eligibility for participation in the extracurricular activity until the student:

2493 (i) demonstrates academic eligibility by providing test results or a portfolio of the
2494 student's work to the school principal, provided that a student may not reestablish academic
2495 eligibility under this Subsection (14)(a) during the same activity season in which the student
2496 was declared to be academically ineligible;

2497 (ii) returns to public school and reestablishes academic eligibility; or

2498 (iii) enrolls in a private school and establishes academic eligibility.

2499 (b) A public school student who has been declared to be behaviorally ineligible to
2500 participate in an extracurricular activity and who subsequently enrolls in a home school shall
2501 lose eligibility for participation in the extracurricular activity until the student meets eligibility
2502 standards as provided in Subsection (3).

2503 (15) When selection to participate in an extracurricular activity at a public school is
2504 made on a competitive basis, a private school student or a home school student is eligible to try
2505 out for and participate in the activity as provided in this section.

2506 (16) (a) If a student exits a public school to enroll in a private school or a home school
2507 mid-semester or during an activity season, and the student desires to participate in an
2508 extracurricular activity at the public school, the public school shall issue an interim academic
2509 assessment based on the student's work in each class.

2510 (b) A student's academic eligibility to participate in an extracurricular activity under
2511 the circumstances described in Subsection (16)(a) is dependent on the student meeting public
2512 school academic eligibility standards at the time of exiting public school.

2513 (c) A student may appeal an academic eligibility determination made under Subsection
 2514 (16)(b) in accordance with procedures for appealing a public school student's academic
 2515 eligibility.

2516 Section 12. Section **53G-6-706** is amended to read:

2517 **53G-6-706. Placement of a student of a home school, micro-education entity, or**
 2518 **home-based education entity, who transfers to a public school.**

2519 (1) For the purposes of this section[:],

2520 [~~(a) "Home school student" means a student who attends a home school pursuant to~~
 2521 ~~Section 53G-6-204.~~]

2522 [~~(b) "Parent" "parent"~~] "parent" means the same as that term is defined in Section 53G-6-201.

2523 (2) [~~When a home school student transfers from a home school~~] When a home school
 2524 student, a home-based education entity student, or a micro-education entity student transfers
 2525 from a home school, a home-based education entity, or a micro-education entity to a public
 2526 school, the public school shall place the student in the grade levels, classes, or courses that the
 2527 student's parent and [~~in consultation with~~] the school administrator determine are appropriate
 2528 based on the parent's assessment of the student's academic performance.

2529 (3) (a) Within 30 days of [~~a home school~~] the student's placement in a public school
 2530 grade level, class, or course, either the student's teacher or the student's parent may request a
 2531 conference to consider changing the student's placement.

2532 (b) If the student's teacher and the student's parent agree on a placement change, the
 2533 public school shall place the student in the agreed upon grade level, class, or course.

2534 (c) If the student's teacher and the student's parent do not agree on a placement change,
 2535 the public school shall evaluate the student's subject matter mastery in accordance with
 2536 Subsection (3)(d).

2537 (d) The student's parent has the option of:

2538 (i) allowing the public school to administer, to the student, assessments that are:

2539 (A) regularly administered to public school students; and

2540 (B) used to measure public school students' subject matter mastery and determine
 2541 placement; or

2542 (ii) having a private entity or individual administer assessments of subject matter
 2543 mastery to the student at the parent's expense.

2544 (e) After an evaluation of a student's subject matter mastery, a public school may
2545 change [a] the student's placement in a grade level, class, or course.

2546 (4) [~~This~~] In accordance with Section 53G-6-702, this section does not apply to a
2547 student who is dual enrolled in a public school and a [~~home school pursuant to Section~~
2548 ~~53G-6-702~~];

2549 (a) home school;

2550 (b) home-based education entity; or

2551 (c) micro-education entity.

2552 Section 13. Section **53G-9-301** is amended to read:

2553 **53G-9-301. Definitions.**

2554 As used in this part:

2555 (1) "Department" means the Department of Health and Human Services created in
2556 Section 26B-1-201.

2557 (2) "Health official" means an individual designated by a local health department from
2558 within the local health department to consult and counsel parents and licensed health care
2559 providers, in accordance with Subsection 53G-9-304(2)(a).

2560 (3) "Health official designee" means a licensed health care provider designated by a
2561 local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with
2562 parents, licensed health care professionals, and school officials.

2563 (4) "Immunization" or "immunize" means a process through which an individual
2564 develops an immunity to a disease, through vaccination or natural exposure to the disease.

2565 (5) "Immunization record" means a record relating to a student that includes:

2566 (a) information regarding each required vaccination that the student has received,
2567 including the date each vaccine was administered, verified by:

2568 (i) a licensed health care provider;

2569 (ii) an authorized representative of a local health department;

2570 (iii) an authorized representative of the department;

2571 (iv) a registered nurse; or

2572 (v) a pharmacist;

2573 (b) information regarding each disease against which the student has been immunized
2574 by previously contracting the disease; and

2575 (c) an exemption form identifying each required vaccination from which the student is
2576 exempt, including all required supporting documentation described in Section 53G-9-303.

2577 (6) "Legally responsible individual" means:

2578 (a) a student's parent;

2579 (b) the student's legal guardian;

2580 (c) an adult brother or sister of a student who has no legal guardian; or

2581 (d) the student, if the student:

2582 (i) is an adult; or

2583 (ii) is a minor who may consent to treatment under Section 26B-4-321.

2584 (7) "Licensed health care provider" means a health care provider who is licensed under
2585 Title 58, Occupations and Professions, as:

2586 (a) a medical doctor;

2587 (b) an osteopathic doctor;

2588 (c) a physician assistant; or

2589 (d) an advanced practice registered nurse.

2590 (8) "Local health department" means the same as that term is defined in Section
2591 26A-1-102.

2592 (9) "Required vaccines" means vaccines required by department rule described in
2593 Section 53G-9-305.

2594 (10) (a) "School" means any public or private:

2595 [~~(a)~~] (i) elementary or secondary school through grade 12;

2596 [~~(b)~~] (ii) preschool;

2597 [~~(c)~~] (iii) child care program, as that term is defined in Section 26B-2-401;

2598 [~~(d)~~] (iv) nursery school; or

2599 [~~(e)~~] (v) kindergarten.

2600 (b) "School" does not include a:

2601 (i) home school;

2602 (ii) home-based education entity; or

2603 (iii) micro-education entity.

2604 (11) "Student" means an individual who attends a school.

2605 (12) "Vaccinating" or "vaccination" means the administration of a vaccine.

2606 (13) "Vaccination exemption form" means a form, described in Section 53G-9-304,
2607 that documents and verifies that a student is exempt from the requirement to receive one or
2608 more required vaccines.

2609 (14) "Vaccine" means the substance licensed for use by the United States Food and
2610 Drug Administration that is injected into or otherwise administered to an individual to
2611 immunize the individual against a communicable disease.

2612 Section 14. **Effective date.**

2613 This bill takes effect on May 1, 2024.