

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

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ralph Okerlund**

5 House Sponsor: Brad R. Wilson

7 **LONG TITLE**

8 **General Description:**

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10 eliminating references to repealed provisions, making minor wording changes, updating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

12 **Highlighted Provisions:**

13 This bill:

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15 eliminating references to repealed provisions, making minor wording changes,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

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 7-1-810, as last amended by Laws of Utah 2013, Chapters 73, and 412

25 7-3-10, as last amended by Laws of Utah 2013, Chapter 412

26 7-8-3, as last amended by Laws of Utah 2013, Chapter 412

27 10-2a-302.5, as enacted by Laws of Utah 2017, Chapter 452

28 13-34-114, as last amended by Laws of Utah 2013, Chapter 412

29 16-16-111, as last amended by Laws of Utah 2013, Chapter 412

- 30 **19-1-301**, as last amended by Laws of Utah 2017, Chapter 206
- 31 **19-1-301.5**, as last amended by Laws of Utah 2017, Chapter 206
- 32 **19-1-507**, as enacted by Laws of Utah 2010, Chapter 170
- 33 **19-1-601**, as enacted by Laws of Utah 2017, Chapter 246
- 34 **19-1-602**, as enacted by Laws of Utah 2017, Chapter 246
- 35 **19-2-107**, as last amended by Laws of Utah 2015, Chapter 154
- 36 **19-3-105**, as last amended by Laws of Utah 2017, Chapter 360
- 37 **19-3-301**, as last amended by Laws of Utah 2012, Chapter 212
- 38 **19-5-107**, as last amended by Laws of Utah 2012, Chapter 360
- 39 **19-6-102.1**, as last amended by Laws of Utah 2015, Chapter 451
- 40 **19-6-105**, as last amended by Laws of Utah 2017, Chapter 281
- 41 **19-6-402**, as last amended by Laws of Utah 2015, Chapter 451
- 42 **19-6-503**, as last amended by Laws of Utah 2008, Chapter 89
- 43 **19-6-706**, as last amended by Laws of Utah 2015, Chapter 340
- 44 **20A-2-201**, as last amended by Laws of Utah 2015, Chapters 130 and 394
- 45 **20A-3-601**, as last amended by Laws of Utah 2017, Chapter 58
- 46 **20A-4-103**, as last amended by Laws of Utah 2006, Chapter 326
- 47 **20A-4-107**, as last amended by Laws of Utah 2014, Chapters 98, 231 and last amended
- 48 by Coordination Clause, Laws of Utah 2014, Chapter 231
- 49 **20A-7-214**, as last amended by Laws of Utah 2013, Chapter 310
- 50 **20A-9-405**, as enacted by Laws of Utah 2014, Chapter 17
- 51 **26-7-8**, as enacted by Laws of Utah 2016, Chapter 269
- 52 **26-10-10**, as enacted by Laws of Utah 2013, Chapter 45
- 53 **26-18-3**, as last amended by Laws of Utah 2017, Chapter 74
- 54 **26-38-2**, as last amended by Laws of Utah 2017, Chapter 455
- 55 **31A-4-106**, as last amended by Laws of Utah 2012, Chapter 50
- 56 **31A-27a-403**, as enacted by Laws of Utah 2007, Chapter 309
- 57 **31A-30-206**, as last amended by Laws of Utah 2011, Chapter 297

- 58 **31A-32a-107**, as last amended by Laws of Utah 2008, Chapter 389
- 59 **32B-1-605**, as last amended by Laws of Utah 2017, Chapter 455
- 60 **32B-3-102**, as last amended by Laws of Utah 2017, Chapter 455
- 61 **32B-6-205.2**, as enacted by Laws of Utah 2017, Chapter 455
- 62 **32B-6-305.2**, as enacted by Laws of Utah 2017, Chapter 455
- 63 **32B-6-902**, as last amended by Laws of Utah 2017, Chapter 455
- 64 **32B-6-905.1**, as enacted by Laws of Utah 2017, Chapter 455
- 65 **32B-6-905.2**, as enacted by Laws of Utah 2017, Chapter 455
- 66 **36-23-106**, as last amended by Laws of Utah 2017, Chapters 18, 133, 272 and last
- 67 amended by Coordination Clause, Laws of Utah 2017, Chapter 272
- 68 **49-11-609**, as last amended by Laws of Utah 2017, Chapter 94
- 69 **49-20-401**, as last amended by Laws of Utah 2016, Chapter 279
- 70 **53B-8-101**, as last amended by Laws of Utah 2017, Chapter 382
- 71 **53B-8-202**, as renumbered and amended by Laws of Utah 2017, Chapter 386
- 72 **53F-8-303**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 73 **53G-3-304**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 74 **55-12-116**, as renumbered and amended by Laws of Utah 2005, Chapter 155
- 75 **57-19-5**, as last amended by Laws of Utah 2016, Chapter 255
- 76 **58-37f-304**, as last amended by Laws of Utah 2017, Chapters 181 and 237
- 77 **58-55-102**, as last amended by Laws of Utah 2017, Chapter 411
- 78 **58-87-401**, as renumbered and amended by Laws of Utah 2017, Chapter 225
- 79 **59-2-1346**, as last amended by Laws of Utah 2016, Chapter 368
- 80 **59-12-102**, as last amended by Laws of Utah 2017, Chapters 181, 382, and 422
- 81 **59-12-104**, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429
- 82 **59-12-104.5**, as last amended by Laws of Utah 2017, Chapter 268
- 83 **59-13-301**, as last amended by Laws of Utah 2017, Chapter 234
- 84 **61-2g-103**, as last amended by Laws of Utah 2013, Chapter 412
- 85 **62A-4a-105**, as last amended by Laws of Utah 2017, Chapters 209 and 330

- 86 **62A-15-401**, as last amended by Laws of Utah 2017, Chapter 455
- 87 **63G-2-302**, as last amended by Laws of Utah 2017, Chapters 168 and 282
- 88 **63G-3-102**, as last amended by Laws of Utah 2016, Chapter 193
- 89 **63G-21-102**, as enacted by Laws of Utah 2017, Chapter 205
- 90 **63I-1-226**, as last amended by Laws of Utah 2017, Chapters 177 and 443
- 91 **63I-1-257**, as last amended by Laws of Utah 2016, Chapter 325
- 92 **63I-1-259**, as last amended by Laws of Utah 2017, Chapters 166 and 201
- 93 **63I-1-262**, as last amended by Laws of Utah 2017, Chapter 459
- 94 **63I-2-219**, as last amended by Laws of Utah 2016, Chapter 369
- 95 **63I-2-226**, as last amended by Laws of Utah 2017, Chapters 126, 155, 413, and 419
- 96 **63I-2-234**, as last amended by Laws of Utah 2017, Chapter 116
- 97 **63I-2-236**, as last amended by Laws of Utah 2017, Chapter 90
- 98 **63I-2-248**, as enacted by Laws of Utah 2013, Chapter 412
- 99 **63I-2-249**, as enacted by Laws of Utah 2015, Chapter 455
- 100 **63I-2-253**, as last amended by Laws of Utah 2017, Chapters 217, 223, 350, 365, 381,
- 101 386, and 468
- 102 **63I-2-278**, as last amended by Laws of Utah 2015, Chapter 217
- 103 **63N-2-104**, as last amended by Laws of Utah 2017, Chapter 310
- 104 **67-4a-501**, as repealed and reenacted by Laws of Utah 2017, Chapter 371
- 105 **70A-2-311**, as last amended by Laws of Utah 2016, Chapter 348
- 106 **70A-2-402**, as last amended by Laws of Utah 2017, Chapter 204
- 107 **70A-2-601**, as last amended by Laws of Utah 2015, Chapter 258
- 108 **70A-2-610**, as last amended by Laws of Utah 2015, Chapter 258
- 109 **72-2-118**, as last amended by Laws of Utah 2016, Chapter 222
- 110 **75-7-1011**, as last amended by Laws of Utah 2013, Chapter 412
- 111 **77-7-15**, as enacted by Laws of Utah 1980, Chapter 15
- 112 **77-10a-13**, as last amended by Laws of Utah 2012, Chapter 22
- 113 **77-15a-104**, as last amended by Laws of Utah 2015, Chapter 258

- 114 [77-20-3.5](#), as renumbered and amended by Laws of Utah 2017, Chapter 289
- 115 [77-20-9](#), as last amended by Laws of Utah 2016, Chapter 234
- 116 [77-23-210](#), as last amended by Laws of Utah 2015, Chapter 317
- 117 [77-30-8](#), as enacted by Laws of Utah 1980, Chapter 15
- 118 [77-30-18](#), as enacted by Laws of Utah 1980, Chapter 15
- 119 [77-30-25](#), as last amended by Laws of Utah 2007, Chapter 306
- 120 [77-32-603](#), as last amended by Laws of Utah 1998, Chapter 333
- 121 [77-32a-102](#), as enacted by Laws of Utah 2017, Chapter 304
- 122 [77-38a-401](#), as last amended by Laws of Utah 2011, Chapter 37
- 123 [77-41-103](#), as last amended by Laws of Utah 2017, Chapter 450

124

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

126 Section 1. Section **7-1-810** is amended to read:

127 **7-1-810. Limited liability companies.**

128 (1) Notwithstanding any other provision of this title and subject to Subsection (8), if
 129 the conditions of this section are met, the following may be organized as or convert to a limited
 130 liability company under [~~Title 48, Chapter 2c, Utah Revised Limited Liability Company Act,~~
 131 ~~or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act[~~, as~~
 132 ~~appropriate pursuant to Section [48-3a-1405](#)]:~~

- 133 (a) an industrial bank chartered under Chapter 8, Industrial Banks;
- 134 (b) an industrial loan company as defined in Section [7-8-21](#); or
- 135 (c) any of the following if the institution is an S Corporation, as defined in Section
 136 1361, Internal Revenue Code, immediately before becoming a limited liability company:
 - 137 (i) a bank chartered under Chapter 3, Banks; or
 - 138 (ii) a depository institution holding company.

139 (2) (a) Before an institution described in Subsection (1) may organize as or convert to a
 140 limited liability company, the institution shall obtain approval of the commissioner.

141 (b) (i) To obtain the approval under this section from the commissioner, the institution

142 shall file a request for approval with the commissioner at least 30 days before the day on which
143 the institution becomes a limited liability company.

144 (ii) If the commissioner does not disapprove the request for approval within 30 days
145 from the day on which the commissioner receives the request, the request is considered
146 approved.

147 (iii) When taking action on a request for approval filed under this section, the
148 commissioner may:

149 (A) approve the request;

150 (B) approve the request subject to terms and conditions the commissioner considers
151 necessary; or

152 (C) disapprove the request.

153 (3) To approve a request for approval, the commissioner shall find:

154 (a) for an institution described in Subsection (1) that is required to be insured by a
155 federal deposit insurance agency, that the institution:

156 (i) will operate in a safe and sound manner;

157 (ii) has the following characteristics:

158 (A) the institution is not subject to automatic termination, dissolution, or suspension
159 upon the happening of some event other than the passage of time;

160 (B) the exclusive authority to manage the institution is vested in a board of managers
161 or directors that:

162 (I) is elected or appointed by the owners;

163 (II) is not required to have owners of the institution included on the board;

164 (III) possesses adequate independence and authority to supervise the operation of the
165 institution; and

166 (IV) operates with substantially the same rights, powers, privileges, duties, and
167 responsibilities as the board of directors of a corporation;

168 (C) neither state law, nor the institution's operating agreement, bylaws, or other
169 organizational documents provide that an owner of the institution is liable for the debts,

170 liabilities, and obligations of the institution in excess of the amount of the owner's investment;
171 and

172 (D) (I) neither state law, nor the institution's operating agreement, bylaws, or other
173 organizational documents require the consent of any other owner of the institution in order for
174 an owner to transfer an ownership interest in the institution, including voting rights; and

175 (II) the institution is able to obtain new investment funding if needed to maintain
176 adequate capital; and

177 (iii) is able to comply with all legal and regulatory requirements for an insured
178 depository institution under applicable federal and state law; and

179 (b) for an institution described in Subsection (1) that is not required to be insured by a
180 federal deposit insurance agency, that the institution will operate in a safe and sound manner.

181 (4) An institution described in Subsection (3)(a) that is organized as a limited liability
182 company shall maintain the characteristics listed in Subsection (3)(a)(ii) during such time as it
183 is authorized to conduct business under this title as a limited liability company.

184 (5) (a) All rights, privileges, powers, duties, and obligations of an institution described
185 in Subsection (1) that is organized as a limited liability company and its members and
186 managers shall be governed by [~~Title 48, Chapter 2c, Utah Revised Limited Liability Company~~
187 ~~Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, [as
188 appropriate pursuant to Section ~~48-3a-1405~~] except:

189 [(i) the following do not apply to an institution that is described in Subsection (3)(a):]

190 [(A) Subsection ~~48-2c-402~~(2)(a)(ii);]

191 [(B) Section ~~48-2c-604~~;

192 [(C) Section ~~48-2c-703~~;

193 [(D) Section ~~48-2c-708~~;

194 [(E) Subsection ~~48-2c-801~~(2);]

195 [(F) Section ~~48-2c-1102~~;

196 [(G) Section ~~48-2c-1104~~; and]

197 [(H) Subsections ~~48-2c-1201~~(2) through (5);]

198 ~~[(iii)]~~ (i) the following do not apply to an institution that is described in Subsection

199 (3)(a):

200 (A) Section 48-3a-111;

201 (B) Section 48-3a-113;

202 (C) Section 48-3a-201;

203 (D) Section 48-3a-401;

204 (E) Subsections 48-3a-407(1) and (3)(c);

205 (F) Section 48-3a-410;

206 (G) Subsection 48-3a-502(1)(c);

207 (H) Title 48, Chapter 3a, Part 6, Dissociation;

208 (I) Section 48-3a-701; and

209 (J) Title 48, Chapter 3a, Part 9, Foreign Limited Liability Companies; and

210 ~~[(iii)]~~ (ii) as otherwise provided in this title.

211 (b) Notwithstanding Subsection (5)(a), for an institution that is described in Subsection

212 (3)(a):

213 (i) for purposes of transferring a member's interests in the institution, a member's

214 interest in the institution shall be treated like a share of stock in a corporation; and

215 (ii) if a member's interest in the institution is transferred voluntarily or involuntarily to

216 another person, the person who receives the member's interest shall obtain the member's entire

217 rights associated with the member's interest in the institution including:

218 (A) all economic rights; and

219 (B) all voting rights.

220 (c) An institution described in Subsection (3)(a) may not by agreement or otherwise

221 change the application of Subsection (5)(a) to the institution.

222 (6) Unless the context requires otherwise, for the purpose of applying this title to an

223 institution described in Subsection (1) that is organized as a limited liability company:

224 (a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act,

225 includes the equivalent citation to ~~[Title 48, Chapter 2c, Utah Revised Limited Liability~~

226 ~~Company Act, or] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company~~
227 ~~Act[, as appropriate pursuant to Section 48-3a-1405];~~

228 (b) "articles of incorporation" includes a limited liability company's certificate of
229 organization as that term is used in [~~Section 48-2c-403 or] Section 48-3a-201[, as appropriate~~
230 ~~pursuant to Section 48-3a-1405];~~

231 (c) "board of directors" includes one or more persons who have, with respect to an
232 institution described in Subsection (1), authority substantially similar to that of a board of
233 directors of a corporation;

234 (d) "bylaws" includes a limited liability company's operating agreement as that term is
235 defined in [~~Section 48-2c-102 or] Section 48-3a-201[, as appropriate pursuant to Section~~
236 ~~48-3a-1405];~~

237 (e) "corporation" includes a limited liability company organized under [~~Title 48,~~
238 ~~Chapter 2c, Utah Revised Limited Liability Company Act, or] Title 48, Chapter 3a, Utah~~
239 ~~Revised Uniform Limited Liability Company Act[, as appropriate pursuant to Section~~
240 ~~48-3a-1405];~~

241 (f) "director" includes any of the following of a limited liability company:

242 (i) a manager;

243 (ii) a director; or

244 (iii) other person who has with respect to the institution described in Subsection (1),
245 authority substantially similar to that of a director of a corporation;

246 (g) "dividend" includes distributions made by a limited liability company under [~~Title~~
247 ~~48, Chapter 2c, Part 10, Distributions, or] Title 48, Chapter 3a, Part 4, Relations of Members to~~
248 ~~Each Other and to Limited Liability Company[, as appropriate pursuant to Section~~
249 ~~48-3a-1405];~~

250 (h) "incorporator" includes an organizer of a limited liability company as provided in
251 [~~Title 48, Chapter 2c, Part 4, Formation, or] Title 48, Chapter 3a, Part 2, Formation --~~
252 ~~Certificate of Organization and Other Filings[, as appropriate pursuant to Section 48-3a-1405];~~

253 (i) "officer" includes any of the following of an institution described in Subsection (1):

- 254 (i) an officer; or
255 (ii) other person who has with respect to the institution described in Subsection (1)
256 authority substantially similar to that of an officer of a corporation;
257 (j) "security," "shares," or "stock" of a corporation includes:
258 (i) a membership interest in a limited liability company as provided in [~~Title 48,~~
259 ~~Chapter 2c, Part 7, Members, or~~] Title 48, Chapter 3a, Part 4, Relations of Members to Each
260 Other and to Limited Liability Company[~~, as appropriate pursuant to Section 48-3a-1405~~]; and
261 (ii) a certificate or other evidence of an ownership interest in a limited liability
262 company; and
263 (k) [~~"stockholder" or "shareholder"~~] "shareholder" or "stockholder" includes an owner
264 of an interest in an institution described in Subsection (1) including a member as provided in
265 [~~Title 48, Chapter 2c, Part 7, Members, or~~] Title 48, Chapter 3a, Part 4, Relations of Members
266 to Each Other and to Limited Liability Company[~~, as appropriate pursuant to Section~~
267 ~~48-3a-1405~~].

268 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
269 commissioner shall make rules governing the form of a request for approval filed under this
270 section.

271 (8) A depository institution organized under the laws of this state may not be organized
272 as or converted to a series of transferable interests in a limited liability company as provided in
273 [~~Section 48-2c-606, or~~] Title 48, Chapter 3a, Part 12, Series Limited Liability Companies[~~, as~~
274 ~~appropriate pursuant to Section 48-3a-1405~~].

275 Section 2. Section **7-3-10** is amended to read:

276 **7-3-10. Organization -- Powers, rights, and privileges of banking corporation --**
277 **Other business activities.**

278 (1) A bank chartered under this chapter shall be:

279 (a) a domestic corporation under Title 16, Chapter 10a, Utah Revised Business
280 Corporation Act; or

281 (b) subject to Section **7-1-810**, including the requirement that the bank be an S

282 Corporation immediately before becoming a limited liability company, a limited liability
283 company created under [~~Title 48, Chapter 2c, Utah Revised Limited Liability Company Act,~~
284 ~~or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act[, as
285 appropriate pursuant to Section ~~48-3a-1405~~].

286 (2) A bank has all the rights, privileges, and powers necessary or incidental to carrying
287 on the business of banking in addition to the powers granted:

288 (a) if the bank is a corporation, under Title 16, Chapter 10a, Utah Revised Business
289 Corporation Act; or

290 (b) subject to Section ~~7-1-810~~, if the bank is a limited liability company, under [~~Title~~
291 ~~48, Chapter 2c, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah
292 Revised Uniform Limited Liability Company Act[, as appropriate pursuant to Section
293 ~~48-3a-1405~~].

294 (3) The commissioner may, by rule or order, determine that necessary or incidental
295 rights, privileges, and powers include:

296 (a) the rights, privileges, and powers held by national banks; or

297 (b) other business activities so long as the commissioner's determination is not
298 inconsistent with the rules, regulations, or other actions of the board of governors of the
299 Federal Reserve System under Section 4(c)(8) of the Bank Holding Company Act of 1956, 12
300 U.S.C. Sec. 1843(c)(8).

301 (4) The commissioner shall implement this section in a manner consistent with the
302 purposes set forth in Section ~~7-1-102~~.

303 Section 3. Section ~~7-8-3~~ is amended to read:

304 **7-8-3. Organization -- Authorization to conduct business -- Deposit insurance.**

305 (1) Subject to Subsection (4), the commissioner may authorize a person described in
306 Subsection (2) to conduct business as an industrial bank.

307 (2) (a) Each person organized to conduct the business of an industrial bank in this state
308 shall be organized under:

309 (i) Title 16, Chapter 10a, Utah Revised Business Corporation Act; or

310 (ii) in accordance with Section 7-1-810[, Title 48, Chapter 2c, Utah Revised Limited
311 Liability Company Act,] or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability
312 Company Act[, as appropriate pursuant to Section 48-3a-1405].

313 (b) A person may not conduct business as an industrial bank authorized under this
314 chapter to conduct business as an industrial bank in any form of entity other than those
315 provided in Subsection (2)(a).

316 (3) (a) All rights, privileges, powers, duties, and obligations of a corporation
317 authorized to conduct business as an industrial bank and its officers, directors, and stockholders
318 shall be governed by Title 16, Chapter 10a, Utah Revised Business Corporation Act, except as
319 otherwise provided in this title.

320 (b) All rights, privileges, powers, duties, and obligations of a limited liability company
321 authorized to conduct business as an industrial bank and its members and managers shall be
322 governed by [~~Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or~~] Title 48,
323 Chapter 3a, Utah Revised Uniform Limited Liability Company Act, [~~as appropriate pursuant to~~
324 ~~Section 48-3a-1405,~~] except as otherwise provided in this title.

325 (4) (a) An industrial bank is authorized to receive and hold deposits.

326 (b) An industrial bank may not conduct business under this chapter as an industrial
327 bank unless the industrial bank obtains insurance from the Federal Deposit Insurance
328 Corporation or a successor federal deposit insurance entity for any deposits received or held by
329 the industrial bank.

330 Section 4. Section 10-2a-302.5 is amended to read:

331 **10-2a-302.5. Incorporation of a town -- Petition.**

332 (1) As used in this section:

333 (a) "Assessed value," with respect to agricultural land, means the value at which the
334 land would be assessed without regard to a valuation for agricultural use under Section
335 59-2-503.

336 (b) (i) "Municipal services" means any of the following that are publicly provided:

337 (A) culinary water;

- 338 (B) secondary water;
- 339 (C) sewer service;
- 340 (D) law enforcement service;
- 341 (E) fire protection;
- 342 (F) roads;
- 343 (G) refuse collection; or
- 344 (H) weed control.

345 (ii) "Municipal services" includes the physical facilities required to provide a service
346 described in Subsection (1)(b)(i).

347 (2) (a) This section applies to individuals who seek to initiate the process of
348 incorporating a town on or after May 9, 2017.

349 (b) Individuals who reside in a contiguous area of a county that is not within a
350 municipality may incorporate as a town as provided in this section if:

- 351 (i) the area has a population of at least 100 people, but less than 1,000 people; and
- 352 (ii) at least 50% of the voting eligible population in the area are registered voters.

353 (c) An area within a county of the first class is not contiguous for purposes of
354 Subsection (2)(b) if:

- 355 (i) the area includes a strip of land that connects geographically separate areas; and
- 356 (ii) the distance between the geographically separate areas is greater than the average
357 width of the strip of land connecting the geographically separate areas.

358 (3) (a) Individuals described in Subsection (2) may initiate the process of incorporating
359 a town by filing an application for an incorporation petition with the lieutenant governor that
360 contains:

361 (i) the name and residential address of at least five sponsors of the petition who meet
362 the qualifications described in Subsection (3)(b) for a sponsor and Subsection (7) for a petition
363 signer;

364 (ii) a statement certifying that each of the sponsors:

365 (A) is a resident of the state; and

366 (B) has voted in a regular general election or municipal general election in the state
367 within the last three years;

368 (iii) the signature of each sponsor, attested to by a notary public;

369 (iv) the name of a sponsor who is designated as the contact sponsor;

370 (v) consistent with the requirements described in Subsection (3)(c), an accurate map or
371 plat, prepared by a licensed surveyor, showing a legal description of the boundary of the
372 proposed town; and

373 (vi) a statement indicating whether persons may be paid for gathering signatures for the
374 petition.

375 (b) Sponsors may not file a petition under this section if the cumulative private real
376 property that the petition sponsors own exceeds 40% of the total private land area within the
377 boundaries of the proposed town.

378 (c) A map described in Subsection (3)(a)(v) may not include an area proposed for
379 annexation in an annexation petition described in Section [10-2-403](#) that is pending on the day
380 on which the application for the incorporation petition is filed.

381 (4) (a) If the lieutenant governor determines that an incorporation petition application
382 complies with the requirements described in Subsection (3)(a), the lieutenant governor shall
383 accept the application and mail or transmit written notification of the acceptance to:

384 (i) the contact sponsor; and

385 (ii) the Utah Population Estimates Committee.

386 (b) If the lieutenant governor determines that an application does not comply with the
387 requirements described in Subsection (3)(a), the lieutenant governor shall reject the application
388 and mail or transmit written notification of the rejection, including the reason for the rejection,
389 to the contact sponsor.

390 (5) (a) Within 20 days after the day on which the lieutenant governor accepts an
391 application under Subsection (4)(a), the Utah Population Estimates Committee shall:

392 (i) determine the population of the proposed town as of the date the application was
393 filed under Subsection (3) for the proposed town; and

394 (ii) provide that determination to the lieutenant governor.

395 (b) If the Utah Population Estimates Committee determines that the population of the
396 proposed town does not meet the requirements described in Subsection (2)(b)(i), the lieutenant
397 governor shall rescind the acceptance described in Subsection (4)(a) and reject the application
398 in accordance with Subsection (4)(b).

399 (6) Within 30 days after the day on which the lieutenant governor receives the
400 determination described in Subsection (5)(b) but before collecting signatures under Subsection
401 (7), the sponsors of the incorporation petition shall hold a public hearing at which the public
402 may:

403 (a) review the map or plat of the proposed town described in Subsection (3)(a)(v);

404 (b) ask questions and receive information about the incorporation of the proposed
405 town; and

406 (c) express views about the proposed incorporation, including views regarding the
407 boundary of the proposed town.

408 (7) (a) If, after holding the public hearing described in Subsection (6), the sponsors
409 wish to proceed with the proposed incorporation, the sponsors shall circulate an incorporation
410 petition that, in order to be declared sufficient under Subsection (8)(b)(i), must be signed by:

411 (i) the owners of private real property that:

412 (A) is located within the boundaries of the proposed town; and

413 (B) is collectively greater than or equal to 20% of the assessed value of all private real
414 property within the boundaries of the proposed town; and

415 (ii) 20% of the registered voters residing within the boundaries of the proposed town,
416 as of the day on which the petition is filed.

417 (b) The petition sponsors shall ensure that the petition is:

418 (i) accompanied by and circulated with a copy of the map described in Subsection
419 (3)(a)(v); and

420 (ii) printed in substantially the following form:

421 "PETITION FOR INCORPORATION OF (insert the proposed name of the proposed

422 town)

423 To the Honorable Lieutenant Governor:

424 We, the undersigned, respectfully petition the lieutenant governor to direct the county to
425 submit to the registered voters residing within the area described in this petition, in an election,
426 the question of whether the area should incorporate as a town. Each of the undersigned affirms
427 that each has personally signed this petition and is an owner of real property located within, or
428 is a registered voter residing within, the described area, and that the current residence address
429 of each is correctly written after the signer's name. The area we propose for incorporation as a
430 town is described as follows: (insert an accurate description of the area proposed to be
431 incorporated)."

432 (c) An individual who signs a petition described in this Subsection (7) may withdraw
433 or reinstate the individual's signature by filing a written, signed statement with the lieutenant
434 governor before the lieutenant governor certifies the petition signatures under Subsection (8).

435 (d) The petition sponsors shall submit a completed petition to the lieutenant governor
436 no later than 316 days after the day on which the sponsors submit the application described in
437 Subsection (3)(a) to the lieutenant governor.

438 (8) No later than 20 days after the day on which the sponsors submit the petition to the
439 lieutenant governor under Subsection (7)(d), the lieutenant governor shall:

440 (a) determine whether the petition complies with the requirements described in
441 Subsection (7); and

442 (b) (i) if the lieutenant governor determines that the petition complies with the
443 requirements described in Subsection (7):

444 (A) certify the petition as sufficient; and

445 (B) mail or deliver written notification of the certification to the contact sponsor; or

446 (ii) if the lieutenant governor determines that the petition does not comply with the
447 requirements described in Subsection (7):

448 (A) reject the petition; and

449 (B) notify the contact sponsor in writing of the rejection and the reasons for the

450 rejection.

451 (9) (a) Petition sponsors may amend a petition that the lieutenant governor rejected
452 under Subsection (8)(b)(ii) by:

453 (i) correcting the reason for which the lieutenant governor rejects the petition; and

454 (ii) submitting an amended petition to the lieutenant governor no later than the deadline
455 described in Subsection (7)(d).

456 (b) A valid signature on a petition that the lieutenant governor rejects under Subsection
457 (8)(b)(ii) is valid for an amended petition that the petition sponsors submit to the lieutenant
458 governor under Subsection (9)(a).

459 (c) The lieutenant governor shall review an amended petition in accordance with
460 Subsection (8).

461 (d) The sponsors of an incorporation petition may not amend the petition more than
462 once.

463 (10) (a) If the lieutenant governor certifies an incorporation petition as sufficient under
464 Subsection (8), the lieutenant governor shall, within seven days after the day on which the
465 lieutenant governor certifies the petition, mail or transmit written notice of the proposed
466 incorporation to each person who owns private real property that:

467 (i) is located within the boundaries of the proposed town; and

468 (ii) has a value that is greater than or equal to 1% of the assessed value of all private
469 real property within the boundaries of the proposed town.

470 (b) A person described in Subsection (10)(a) may request that the lieutenant governor
471 exclude all or part of the person's property from boundaries of the proposed town if:

472 (i) the property does not require, and is not expected to require, a municipal service
473 that the proposed town will provide; and

474 (ii) exclusion of the property will not leave an unincorporated island within the
475 proposed town.

476 (c) (i) To request exclusion under this Subsection (10), a person described in
477 Subsection (10)(a) shall file a written request with the lieutenant governor within 10 days after

478 the day on which the person receives the notice described in Subsection (10)(a).

479 (ii) The notice shall describe the property for which the person requests exclusion.

480 (d) (i) The lieutenant governor shall exclude property from the boundaries of the
481 proposed town if the property is described in a written request filed under Subsection (10)(c)
482 and meets the requirements described in Subsection (10)(b).

483 (ii) Within five days after the day on which the lieutenant governor excludes the
484 property, the lieutenant governor shall mail or transmit written notice of the exclusion to the
485 person who filed the request and to the contact sponsor.

486 (11) (a) If the lieutenant governor certifies an incorporation petition as sufficient under
487 Subsection (8), the lieutenant governor shall, in accordance with Title 63G, Chapter 6a, Utah
488 Procurement Code, procure the services of a feasibility consultant to conduct a financial
489 feasibility study on the proposed incorporation.

490 (b) The lieutenant governor shall ensure that a feasibility consultant selected under
491 Subsection (11)(a):

492 (i) has expertise in the processes and economics of local government; and

493 (ii) is not affiliated with:

494 (A) a sponsor of the incorporation petition to which the feasibility study relates; or

495 (B) the county in which the proposed town is located.

496 (c) The lieutenant governor shall require the feasibility consultant to complete the
497 financial feasibility study and submit written results of the study to the lieutenant governor no
498 later than 60 days after the day on which the lieutenant governor procures the services of the
499 feasibility consultant.

500 (d) The financial consultant shall ensure that the financial feasibility study includes:

501 (i) an analysis of the population and population density within the boundaries of the
502 proposed town and the surrounding area;

503 (ii) the current and projected five-year demographics of, and tax base within, the
504 boundaries of the proposed town and the surrounding area, including household size and
505 income, commercial and industrial development, and public facilities;

506 (iii) subject to Subsection (11)(e), the current and five-year projected cost of providing
507 municipal services to the proposed town, including administrative costs;

508 (iv) assuming the same tax categories and tax rates as currently imposed by the county
509 and all other current municipal services providers, the present and five-year projected revenue
510 for the proposed town;

511 (v) a projection of the tax burden per household of any new taxes that may be levied
512 within the proposed town within five years of the town's incorporation; and

513 (vi) if the lieutenant governor excludes property from the proposed town under
514 Subsection (10)(d), an update to the map and legal description described in Subsection
515 (3)(a)(v).

516 (e) (i) For purposes of Subsection (11)(d)(iii), the feasibility consultant shall assume
517 that the proposed town will provide a level and quality of municipal services that fairly and
518 reasonably approximate the level and quality of municipal services that are provided to the
519 proposed town at the time the feasibility consultant conducts the feasibility study.

520 (ii) In determining the present cost of municipal services, the feasibility consultant
521 shall consider:

522 (A) the amount it would cost the proposed town to provide the municipal services for
523 the first five years after the town's incorporation; and

524 (B) the current municipal services provider's present and five-year projected cost of
525 providing the municipal services.

526 (iii) In calculating the costs described in Subsection (11)(d)(iii), the feasibility
527 consultant shall account for inflation and anticipated growth.

528 (f) If the five-year projected revenues described in Subsection (11)(d)(iv) exceed the
529 five-year projected costs described in Subsection (11)(d)(iii) by more than 10%, the feasibility
530 consultant shall project and report the expected annual revenue surplus to the contact sponsor
531 and the lieutenant governor.

532 (g) The lieutenant governor shall publish the feasibility study on the lieutenant
533 governor's website and make a copy of the feasibility study available for public review at the

534 Office of the Lieutenant Governor.

535 (12) After the lieutenant governor conducts the feasibility study, the lieutenant
536 governor shall hold a public hearing in accordance with Section 10-2a-303.

537 Section 5. Section 13-34-114 is amended to read:

538 **13-34-114. Consent to use of educational terms in business names.**

539 (1) For purposes of this section:

540 (a) "Business name" means a name filed with the Division of Corporations and

541 Commercial Code under:

542 (i) Section 16-6a-401;

543 (ii) Section 16-10a-401;

544 (iii) Section 16-11-16;

545 (iv) Section 42-2-6.6;

546 (v) Section [~~48-2a-102~~ or] 48-2e-108[, as appropriate pursuant to Section ~~48-3a-1405~~];

547 or

548 (vi) Section [~~48-2c-106~~ or] 48-3a-108[, as appropriate pursuant to Section

549 ~~48-3a-1405~~].

550 (b) "Educational term" means the term:

551 (i) "university";

552 (ii) "college"; or

553 (iii) "institute" or "institution."

554 (2) If a statute listed in Subsection (1)(a) requires the written consent of the division to
555 file a business name with the Division of Corporations and Commercial Code that includes an
556 educational term, the division may consent to the use of an educational term in accordance with
557 this statute.

558 (3) The division shall consent to the use of an educational term in a business name if
559 the person seeking to file the name:

560 (a) is registered under this chapter;

561 (b) is exempt from the chapter under Section 13-34-105; or

562 (c) (i) is not engaged in educational activities; and
563 (ii) does not represent that it is engaged in educational activities.
564 (4) The division may withhold consent to use of an educational term in a business
565 name if the person seeking to file the name:
566 (a) offers, sells, or awards a degree or any other type of educational credential; and
567 (b) fails to provide bona fide instruction through student-faculty interaction according
568 to the standards and criteria established by the division under Subsection 13-34-104(5).
569 Section 6. Section 16-16-111 is amended to read:
570 **16-16-111. Name.**
571 (1) Use of the term "cooperative" or its abbreviation under this chapter is not a
572 violation of the provisions restricting the use of the term under any other law of this state.
573 (2) (a) Notwithstanding Section [~~48-2a-102~~ or] 48-2e-108, as appropriate pursuant to
574 Section 48-2e-1205, the name of a limited cooperative association shall contain:
575 (i) the words "limited cooperative association" or "limited cooperative"; or
576 (ii) the abbreviation "L.C.A." or "LCA".
577 (b) "Cooperative" may be abbreviated as "Co-op" or "Coop".
578 (c) "Association" may be abbreviated as "Assoc." or "Assn."
579 (d) "Limited" may be abbreviated as "Ltd."
580 (e) (i) Use of the term "cooperative" or its abbreviation as permitted by this chapter is
581 not a violation of the provisions restricting the use of the term under any other law of this state.
582 (ii) A limited cooperative association or a member may enforce the restrictions on the
583 use of the term "cooperative" under this chapter and any other law of this state.
584 (iii) A limited cooperative association or a member may enforce the restrictions on the
585 use of the term "cooperative" under any other law of this state.
586 (3) Except as otherwise provided in Subsection (4), a limited cooperative association
587 may use only a name that is available. A name is available if it is distinguishable in the records
588 of the division from:
589 (a) the name of any entity organized or authorized to transact business in this state;

590 (b) a name reserved under Section 16-16-112; and

591 (c) an alternative name approved for a foreign cooperative authorized to transact
592 business in this state.

593 (4) A limited cooperative association may apply to the division for authorization to use
594 a name that is not available. The division shall authorize use of the name if:

595 (a) the person with ownership rights to use the name consents in a record to the use and
596 applies in a form satisfactory to the division to change the name used or reserved to a name that
597 is distinguishable upon the records of the division from the name applied for; or

598 (b) the applicant delivers to the division a certified copy of the final judgment of a
599 court establishing the applicant's right to use the name in this state.

600 Section 7. Section 19-1-301 is amended to read:

601 **19-1-301. Adjudicative proceedings.**

602 (1) As used in this section, "dispositive action" means a final agency action that:

603 (a) the executive director takes following an adjudicative proceeding on a request for
604 agency action; and

605 (b) is subject to judicial review under Section 63G-4-403.

606 (2) This section governs adjudicative proceedings that are not special adjudicative
607 proceedings as defined in Section 19-1-301.5.

608 (3) (a) The department and its boards shall comply with the procedures and
609 requirements of Title 63G, Chapter 4, Administrative Procedures Act.

610 (b) The procedures for an adjudicative proceeding conducted by an administrative law
611 judge are governed by:

612 (i) Title 63G, Chapter 4, Administrative Procedures Act;

613 (ii) this title;

614 (iii) rules adopted by the department under:

615 (A) Subsection 63G-4-102(6); or

616 (B) this title; and

617 (iv) the Utah Rules of Civil Procedure, in the absence of a procedure established under

618 Subsection (3)(b)(i), (ii), or (iii).

619 (4) Except as provided in Section 19-2-113, an administrative law judge shall hear a
620 party's request for agency action.

621 (5) The executive director shall appoint an administrative law judge who:

622 (a) is a member in good standing of the Utah State Bar;

623 (b) has a minimum of:

624 (i) 10 years of experience practicing law; and

625 (ii) five years of experience practicing in the field of:

626 (A) environmental compliance;

627 (B) natural resources;

628 (C) regulation by an administrative agency; or

629 (D) a field related to a field listed in Subsections (5)(b)(ii)(A) through (C); and

630 (c) has a working knowledge of the federal laws and regulations and state statutes and
631 rules applicable to a request for agency action.

632 (6) In appointing an administrative law judge who meets the qualifications described in
633 Subsection (5), the executive director may:

634 (a) compile a list of persons who may be engaged as an administrative law judge pro
635 tempore by mutual consent of the parties to an adjudicative proceeding;

636 (b) appoint an assistant attorney general as an administrative law judge pro tempore; or

637 (c) (i) appoint an administrative law judge as an employee of the department; and

638 (ii) assign the administrative law judge responsibilities in addition to conducting an
639 adjudicative proceeding.

640 (7) (a) An administrative law judge:

641 (i) shall conduct an adjudicative proceeding;

642 (ii) may take any action that is not a dispositive action; and

643 (iii) shall submit to the executive director a proposed dispositive action, including:

644 (A) written findings of fact;

645 (B) written conclusions of law; and

- 646 (C) a recommended order.
- 647 (b) The executive director may:
- 648 (i) approve, approve with modifications, or disapprove a proposed dispositive action
649 submitted to the executive director under Subsection (7)(a); or
- 650 (ii) return the proposed dispositive action to the administrative law judge for further
651 action as directed.
- 652 (c) In making a decision regarding a dispositive action, the executive director may seek
653 the advice of, and consult with:
- 654 (i) the assistant attorney general assigned to the department; or
- 655 (ii) a special master who:
- 656 (A) is appointed by the executive director; and
- 657 (B) is an expert in the subject matter of the proposed dispositive action.
- 658 (d) The executive director shall base a final dispositive action on the record of the
659 proceeding before the administrative law judge.
- 660 (8) To conduct an adjudicative proceeding, an administrative law judge may:
- 661 (a) compel:
- 662 (i) the attendance of a witness; and
- 663 (ii) the production of a document or other evidence;
- 664 (b) administer an oath;
- 665 (c) take testimony; and
- 666 (d) receive evidence as necessary.
- 667 (9) A party may appear before an administrative law judge in person, through an agent
668 or employee, or as provided by department rule.
- 669 (10) (a) Except as provided in Subsection (10)(b), an administrative law judge or the
670 executive director may not participate in an ex parte communication with a party to an
671 adjudicative proceeding regarding the merits of the adjudicative proceeding unless notice and
672 an opportunity to be heard are afforded to all parties.
- 673 (b) The executive director may discuss ongoing operational matters that require the

674 involvement of a division director without violating Subsection (10)(a).

675 (c) Upon receiving an ex parte communication [~~with~~] from a party to a proceeding, an
676 administrative law judge or the executive director shall place the communication in the public
677 record of the proceeding and afford all parties to the proceeding with an opportunity to
678 comment on the communication.

679 (d) If an administrative law judge or the executive director receives an ex parte
680 communication, the person who receives the ex parte communication shall place the
681 communication into the public record of the proceedings and afford all parties an opportunity
682 to comment on the information.

683 (11) Nothing in this section limits a party's right to an adjudicative proceeding under
684 Title 63G, Chapter 4, Administrative Procedures Act.

685 Section 8. Section **19-1-301.5** is amended to read:

686 **19-1-301.5. Permit review adjudicative proceedings.**

687 (1) As used in this section:

688 (a) "Dispositive action" means a final agency action that:

689 (i) the executive director takes as part of a special adjudicative proceeding; and

690 (ii) is subject to judicial review, in accordance with Subsection (16).

691 (b) "Dispositive motion" means a motion that is equivalent to:

692 (i) a motion to dismiss under Utah Rules of Civil Procedure, Rule 12(b)(6);

693 (ii) a motion for judgment on the pleadings under Utah Rules of Civil Procedure, Rule
694 12(c); or

695 (iii) a motion for summary judgment under Utah Rules of Civil Procedure, Rule 56.

696 (c) "Financial assurance determination" means a decision on whether a facility, site,
697 plan, party, broker, owner, operator, generator, or permittee has met financial assurance or
698 financial responsibility requirements as determined by the director of the Division of Waste
699 Management and Radiation Control.

700 (d) "Party" means:

701 (i) the director who issued the permit order or financial assurance determination that is

702 being challenged in the special adjudicative proceeding under this section;

703 (ii) the permittee;

704 (iii) the person who applied for the permit, if the permit was denied;

705 (iv) the person who is subject to a financial assurance determination; or

706 (v) a person granted intervention by the administrative law judge.

707 (e) "Permit" means any of the following issued under this title:

708 (i) a permit;

709 (ii) a plan;

710 (iii) a license;

711 (iv) an approval order; or

712 (v) another administrative authorization made by a director.

713 (f) (i) "Permit order" means an order issued by a director that:

714 (A) approves a permit;

715 (B) renews a permit;

716 (C) denies a permit;

717 (D) modifies or amends a permit; or

718 (E) revokes and reissues a permit.

719 (ii) "Permit order" does not include an order terminating a permit.

720 (g) "Special adjudicative proceeding" means a proceeding under this section to resolve

721 a challenge to a:

722 (i) permit order; or

723 (ii) financial assurance determination.

724 (2) This section governs special adjudicative proceedings.

725 (3) Except as expressly provided in this section, the provisions of Title 63G, Chapter 4,

726 Administrative Procedures Act, do not apply to a special adjudicative proceeding under this

727 section.

728 (4) If a public comment period was provided during the permit application process or

729 the financial assurance determination process, a person who challenges an order or

730 determination may only raise an issue or argument during the special adjudicative proceeding
731 that:

732 (a) the person raised during the public comment period; and
733 (b) was supported with information or documentation that is cited with reasonable
734 specificity and sufficiently enables the director to fully consider the substance and significance
735 of the issue.

736 (5) (a) Upon request by a party, the executive director shall issue a notice of
737 appointment appointing an administrative law judge, in accordance with Subsections
738 19-1-301(5) and (6), to conduct a special adjudicative proceeding under this section.

739 (b) The executive director shall issue a notice of appointment within 30 days after the
740 day on which a party files a request.

741 (c) A notice of appointment shall include:

742 (i) the agency's file number or other reference number assigned to the special
743 adjudicative proceeding;

744 (ii) the name of the special adjudicative proceeding; and

745 (iii) the administrative law judge's name, title, mailing address, email address, and
746 telephone number.

747 (6) (a) Only the following may file a petition for review of a permit order or financial
748 assurance determination:

749 (i) a party; or

750 (ii) a person who is seeking to intervene under Subsection (7).

751 (b) A person who files a petition for review of a permit order or a financial assurance
752 determination shall file the petition for review within 30 days after the day on which the permit
753 order or the financial assurance determination is issued.

754 (c) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative
755 Rulemaking Act, make rules allowing the extension of the filing deadline described in
756 Subsection (6)(b).

757 (d) A petition for review shall:

- 758 (i) be served in accordance with department rule;
- 759 (ii) include the name and address of each person to whom a copy of the petition for
760 review is sent;
- 761 (iii) if known, include the agency's file number or other reference number assigned to
762 the special adjudicative proceeding;
- 763 (iv) state the date on which the petition for review is served;
- 764 (v) include a statement of the petitioner's position, including, as applicable:
- 765 (A) the legal authority under which the petition for review is requested;
- 766 (B) the legal authority under which the agency has jurisdiction to review the petition
767 for review;
- 768 (C) each of the petitioner's arguments in support of the petitioner's requested relief;
- 769 (D) an explanation of how each argument described in Subsection (6)(d)(v)(C) was
770 preserved;
- 771 (E) a detailed description of any permit condition to which the petitioner is objecting;
- 772 (F) any modification or addition to a permit that the petitioner is requesting;
- 773 (G) a demonstration that the agency's permit decision is based on a finding of fact or
774 conclusion of law that is clearly erroneous;
- 775 (H) if the agency director addressed a finding of fact or conclusion of law described in
776 Subsection (6)(d)(v)(G) in a response to public comment, a citation to the comment and
777 response that relates to the finding of fact or conclusion of law and an explanation of why the
778 director's response was clearly erroneous or otherwise warrants review; and
- 779 (I) a claim for relief.
- 780 (e) A person may not raise an issue or argument in a petition for review unless the
781 issue or argument:
- 782 (i) was preserved in accordance with Subsection (4); or
- 783 (ii) was not reasonably ascertainable before or during the public comment period.
- 784 (f) To demonstrate that an issue or argument was preserved in accordance with
785 Subsection (4), a petitioner shall include the following in the petitioner's petition for review:

786 (i) a citation to where the petitioner raised the issue or argument during the public
787 comment period; and

788 (ii) for each document upon which the petitioner relies in support of an issue or
789 argument, a description that:

790 (A) states why the document is part of the administrative record; and

791 (B) demonstrates that the petitioner cited the document with reasonable specificity in
792 accordance with Subsection (4)(b).

793 (7) (a) A person who is not a party may not participate in a special adjudicative
794 proceeding under this section unless the person is granted the right to intervene under this
795 Subsection (7).

796 (b) A person who seeks to intervene in a special adjudicative proceeding under this
797 section shall, within 30 days after the day on which the permit order or the financial assurance
798 determination being challenged was issued, file:

799 (i) a petition to intervene that:

800 (A) meets the requirements of Subsection [63G-4-207\(1\)](#); and

801 (B) demonstrates that the person is entitled to intervention under Subsection (7)(d)(ii);
802 and

803 (ii) a timely petition for review.

804 (c) In a special adjudicative proceeding to review a permit order, the permittee is a
805 party to the special adjudicative proceeding regardless of who files the petition for review and
806 does not need to file a petition to intervene under Subsection (7)(b).

807 (d) An administrative law judge shall grant a petition to intervene in a special
808 adjudicative proceeding, if:

809 (i) the petition to intervene is timely filed; and

810 (ii) the petitioner:

811 (A) demonstrates that the petitioner's legal interests may be substantially affected by
812 the special adjudicative proceeding;

813 (B) demonstrates that the interests of justice and the orderly and prompt conduct of the

814 special adjudicative proceeding will not be materially impaired by allowing the intervention;
815 and

816 (C) in the petitioner's petition for review, raises issues or arguments that are preserved
817 in accordance with Subsection (4).

818 (e) An administrative law judge:

819 (i) shall issue an order granting or denying a petition to intervene in accordance with
820 Subsection 63G-4-207(3)(a); and

821 (ii) may impose conditions on intervenors as described in Subsections 63G-4-207(3)(b)
822 and (c).

823 (f) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative
824 Rulemaking Act, make rules allowing the extension of the filing deadline described in
825 Subsection (7)(b).

826 (8) (a) Unless the parties otherwise agree, or the administrative law judge otherwise
827 orders, a special adjudicative proceeding shall be conducted as follows:

828 (i) the director shall file and serve the administrative record within 40 days after the
829 day on which the executive director issues a notice of appointment, unless otherwise ordered
830 by the administrative law judge;

831 (ii) any dispositive motion shall be filed and served within 15 days after the day on
832 which the administrative record is filed and served;

833 (iii) the petitioner shall file and serve an opening brief of no more than 30 pages:

834 (A) within 30 days after the day on which the director files and serves the
835 administrative record; or

836 (B) if a party files and serves a dispositive motion, within 30 days after the day on
837 which the administrative law judge issues a decision on the dispositive motion, including a
838 decision to defer the motion;

839 (iv) each responding party shall file and serve a response brief of no more than 30
840 pages within 15 days after the day on which the petitioner files and serves the opening brief;

841 (v) the petitioner may file and serve a reply brief of not more than 15 pages within 15

842 days after the day on which the response brief is filed and served; and

843 (vi) if the petitioner files and serves a reply brief, each responding party may file and
844 serve a surreply brief of no more than 15 pages within five business days after the day on which
845 the petitioner files and serves the reply brief.

846 (b) (i) A reply brief may not raise an issue that was not raised in the response brief.

847 (ii) A surreply brief may not raise an issue that was not raised in the reply brief.

848 (9) (a) An administrative law judge shall conduct a special adjudicative proceeding
849 based only on the administrative record and not as a trial de novo.

850 (b) To the extent relative to the issues and arguments raised in the petition for review,
851 the administrative record consists of the following items, if they exist:

852 (i) (A) for review of a permit order, the permit application, draft permit, and final
853 permit; or

854 (B) for review of a financial assurance determination, the proposed financial assurance
855 determination from the owner or operator of the facility, the draft financial assurance
856 determination, and the final financial assurance determination;

857 (ii) each statement of basis, fact sheet, engineering review, or other substantive
858 explanation designated by the director as part of the basis for the decision relating to the permit
859 order or the financial assurance determination;

860 (iii) the notice and record of each public comment period;

861 (iv) the notice and record of each public hearing, including oral comments made during
862 the public hearing;

863 (v) written comments submitted during the public comment period;

864 (vi) responses to comments that are designated by the director as part of the basis for
865 the decision relating to the permit order or the financial assurance determination;

866 (vii) any information that is:

867 (A) requested by and submitted to the director; and

868 (B) designated by the director as part of the basis for the decision relating to the permit
869 order or the financial assurance determination;

870 (viii) any additional information specified by rule;

871 (ix) any additional documents agreed to by the parties; and

872 (x) information supplementing the record under Subsection (9)(c).

873 (c) (i) There is a rebuttable presumption against supplementing the record.

874 (ii) A party may move to supplement the record described in Subsection (9)(b) with

875 technical or factual information.

876 (iii) The administrative law judge may grant a motion to supplement the record

877 described in Subsection (9)(b) with technical or factual information if the moving party proves

878 that:

879 (A) good cause exists for supplementing the record;

880 (B) supplementing the record is in the interest of justice; and

881 (C) supplementing the record is necessary for resolution of the issues.

882 (iv) The department may, in accordance with Title 63G, Chapter 3, Utah

883 Administrative Rulemaking Act, make rules permitting further supplementation of the record.

884 (10) (a) Except as otherwise provided by this section, the administrative law judge

885 shall review and respond to a petition for review in accordance with Subsections

886 [63G-4-201](#)(3)(d) and (e), following the relevant procedures for formal adjudicative

887 proceedings.

888 (b) The administrative law judge shall require the parties to file responsive briefs in

889 accordance with Subsection (8).

890 (c) If an administrative law judge enters an order of default against a party, the

891 administrative law judge shall enter the order of default in accordance with Section [63G-4-209](#).

892 (d) The administrative law judge, in conducting a special adjudicative proceeding:

893 (i) may not participate in an ex parte communication with a party to the special

894 adjudicative proceeding regarding the merits of the special adjudicative proceeding unless

895 notice and an opportunity to be heard are afforded to all parties; and

896 (ii) shall, upon receiving an ex parte communication, place the communication in the

897 public record of the proceeding and afford all parties an opportunity to comment on the

898 information.

899 (e) In conducting a special adjudicative proceeding, the administrative law judge may
900 take judicial notice of matters not in the administrative record, in accordance with Utah Rules
901 of Evidence, Rule 201.

902 (f) An administrative law judge may take any action in a special adjudicative
903 proceeding that is not a dispositive action.

904 (11) (a) A person who files a petition for review has the burden of demonstrating that
905 an issue or argument raised in the petition for review has been preserved in accordance with
906 Subsection (4).

907 (b) The administrative law judge shall dismiss, with prejudice, any issue or argument
908 raised in a petition for review that has not been preserved in accordance with Subsection (4).

909 (12) In response to a dispositive motion, within 45 days after the day on which oral
910 argument takes place, or, if there is no oral argument, within 45 days after the day on which the
911 reply brief on the dispositive motion is due, the administrative law judge shall:

912 (a) submit a proposed dispositive action to the executive director recommending full or
913 partial resolution of the special adjudicative proceeding, that includes:

- 914 (i) written findings of fact;
- 915 (ii) written conclusions of law; and
- 916 (iii) a recommended order; or

917 (b) if the administrative law judge determines that a full or partial resolution of the
918 special adjudicative proceeding is not appropriate, issue an order that explains the basis for the
919 administrative law judge's determination.

920 (13) For each issue or argument that is not dismissed or otherwise resolved under
921 Subsection (11)(b) or (12), the administrative law judge shall:

922 (a) provide the parties an opportunity for briefing and oral argument in accordance with
923 this section;

924 (b) conduct a review of the director's order or determination, based on the record
925 described in Subsections (9)(b), (9)(c), and (10)(e); and

926 (c) within 60 days after the day on which the reply brief on the dispositive motion is
927 due, submit to the executive director a proposed dispositive action, that includes:

- 928 (i) written findings of fact;
- 929 (ii) written conclusions of law; and
- 930 (iii) a recommended order.

931 (14) (a) When the administrative law judge submits a proposed dispositive action to
932 the executive director, the executive director may:

- 933 (i) adopt, adopt with modifications, or reject the proposed dispositive action; or
- 934 (ii) return the proposed dispositive action to the administrative law judge for further
935 action as directed.

936 (b) On review of a proposed dispositive action, the executive director shall uphold all
937 factual, technical, and scientific agency determinations that are not clearly erroneous based on
938 the petitioner's marshaling of the evidence.

939 (c) In reviewing a proposed dispositive action during a special adjudicative proceeding,
940 the executive director may take judicial notice of matters not in the record, in accordance with
941 Utah Rules of Evidence, Rule 201.

942 (d) The executive director may use the executive director's technical expertise in
943 making a determination.

944 (15) (a) Except as provided in Subsection (15)(b), the executive director may not
945 participate in an ex parte communication with a party to a special adjudicative proceeding
946 regarding the merits of the special adjudicative proceeding, unless notice and opportunity to be
947 heard are afforded to all parties involved in the proceeding.

948 (b) The executive director may discuss ongoing operational matters that require the
949 involvement of a division director without violating Subsection (15)(a).

950 (c) Upon receiving an ex parte communication [~~with~~] from a party to a proceeding, the
951 executive director shall place the communication in the public record of the proceeding and
952 afford all parties to the proceeding with an opportunity to comment on the communication.

953 (16) (a) A party may seek judicial review in the Utah Court of Appeals of a dispositive

954 action in a special adjudicative proceeding, in accordance with Sections 63G-4-401,
955 63G-4-403, and 63G-4-405.

956 (b) An appellate court shall limit its review of a dispositive action of a special
957 adjudicative proceeding under this section to:

958 (i) the record described in Subsections (9)(b), (9)(c), (10)(e), and (14)(c); and

959 (ii) the record made by the administrative law judge and the executive director during
960 the special adjudicative proceeding.

961 (c) During judicial review of a dispositive action, the appellate court shall:

962 (i) review all agency determinations in accordance with Subsection 63G-4-403(4),
963 recognizing that the agency has been granted substantial discretion to interpret its governing
964 statutes and rules; and

965 (ii) uphold all factual, technical, and scientific agency determinations that are not
966 clearly erroneous based upon the petitioner's marshaling of the evidence.

967 (17) (a) The filing of a petition for review does not:

968 (i) stay a permit order or a financial assurance determination; or

969 (ii) delay the effective date of a permit order or a portion of a financial assurance
970 determination.

971 (b) A permit order or a financial assurance determination may not be stayed or delayed
972 unless a stay is granted under this Subsection (17).

973 (c) The administrative law judge shall:

974 (i) consider a party's motion to stay a permit order or a financial assurance
975 determination during a special adjudicative proceeding; and

976 (ii) within 45 days after the day on which the reply brief on the motion to stay is due,
977 submit a proposed determination on the stay to the executive director.

978 (d) The administrative law judge may not recommend to the executive director a stay
979 of a permit order or a financial assurance determination, or a portion of a permit order or a
980 portion of a financial assurance determination, unless:

981 (i) all parties agree to the stay; or

- 982 (ii) the party seeking the stay demonstrates that:
- 983 (A) the party seeking the stay will suffer irreparable harm unless the stay is issued;
- 984 (B) the threatened injury to the party seeking the stay outweighs whatever damage the
985 proposed stay is likely to cause the party restrained or enjoined;
- 986 (C) the stay, if issued, would not be adverse to the public interest; and
- 987 (D) there is a substantial likelihood that the party seeking the stay will prevail on the
988 merits of the underlying claim, or the case presents serious issues on the merits, which should
989 be the subject of further adjudication.

990 (e) A party may appeal the executive director's decision regarding a stay of a permit
991 order or a financial assurance determination to the Utah Court of Appeals, in accordance with
992 Section [78A-4-103](#).

993 (18) (a) Subject to Subsection (18)(c), the administrative law judge shall issue a written
994 response to a non-dispositive motion within 45 days after the day on which the reply brief on
995 the non-dispositive motion is due or, if the administrative law judge grants oral argument on
996 the non-dispositive motion, within 45 days after the day on which oral argument takes place.

997 (b) If the administrative law judge determines that the administrative law judge needs
998 more time to issue a response to a non-dispositive motion, the administrative law judge may
999 issue a response after the deadline described in Subsection (18)(a) if, before the deadline
1000 expires, the administrative law judge gives notice to the parties that includes:

- 1001 (i) the amount of additional time that the administrative law judge requires; and
- 1002 (ii) the reason the administrative law judge needs the additional time.

1003 (c) If the administrative law judge grants oral argument on a non-dispositive motion,
1004 the administrative law judge shall hold the oral argument within 30 days after the day on which
1005 the reply brief on the non-dispositive motion is due.

1006 Section 9. Section **19-1-507** is amended to read:

1007 **19-1-507. Civil action.**

1008 (1) The attorney general or a person may bring a civil action in a court of competent
1009 jurisdiction to seek:

1010 (a) an injunction to enforce ~~[the]~~ this part; and
1011 (b) if the action is brought by the attorney general, a civil penalty not to exceed \$500
1012 for each day ~~[the]~~ this part is violated.

1013 (2) In an action brought under this section, a court may:
1014 (a) order injunctive relief;
1015 (b) impose a civil penalty to the extent provided in Subsection (1);
1016 (c) award attorney fees and costs to the attorney general or person who brings the civil
1017 action, if the attorney general or person prevails; or
1018 (d) take a combination of actions under this Subsection (2).

1019 (3) A civil penalty imposed under this section shall be deposited into the General Fund.
1020 Section 10. Section **19-1-601** is amended to read:

1021 **19-1-601. Title.**

1022 This ~~[chapter]~~ part is known as the "Environmental Mitigation and Response Act."

1023 Section 11. Section **19-1-602** is amended to read:

1024 **19-1-602. Definitions.**

1025 As used in this ~~[chapter]~~ part:

1026 (1) "Environmental mitigation" means an action or activity intended to remedy, reduce,
1027 or offset known negative impacts to the environment.

1028 (2) "Environmental response action" means action taken to prevent, eliminate,
1029 minimize, investigate, monitor, clean up, or remove contaminants in the environment.

1030 (3) "Financial assurance" means a mechanism or instrument intended to provide funds
1031 if necessary to the department to conduct closure, monitoring, or cleanup of a specific facility
1032 or site in accordance with the applicable environmental requirements provided in this title.

1033 (4) "Funding source" means an individual or entity that provides a monetary
1034 contribution to the Environmental Mitigation and Response Fund.

1035 (5) "Natural resource damage" means damages to land, fish, wildlife, biota, air, water,
1036 ground water, drinking water supplies, and other resources that are held in trust for the public
1037 or otherwise controlled by the United States, the state, or local government.

1038 (6) "Unused funds" means the remaining funds from a specific funding source
1039 following the complete implementation of the environmental mitigation or response actions
1040 pursuant to the terms and conditions of the contribution.

1041 Section 12. Section **19-2-107** is amended to read:

1042 **19-2-107. Director -- Appointment -- Powers.**

1043 (1) The executive director shall appoint the director. The director shall serve under the
1044 administrative direction of the executive director.

1045 (2) (a) The director shall:

1046 (i) prepare and develop comprehensive plans for the prevention, abatement, and control
1047 of air pollution in Utah;

1048 (ii) advise, consult, and cooperate with other agencies of the state, the federal
1049 government, other states and interstate agencies, and affected groups, political subdivisions,
1050 and industries in furtherance of the purposes of this chapter;

1051 (iii) review plans, specifications, or other data relative to air pollution control
1052 equipment or any part of the air pollution control equipment;

1053 (iv) under the direction of the executive director, represent the state in all matters
1054 relating to interstate air pollution, including interstate compacts and similar agreements;

1055 (v) secure necessary scientific, technical, administrative, and operational services,
1056 including laboratory facilities, by contract or otherwise;

1057 (vi) encourage voluntary cooperation by persons and affected groups to achieve the
1058 purposes of this chapter;

1059 (vii) encourage local units of government to handle air pollution within their respective
1060 jurisdictions on a cooperative basis and provide technical and consulting assistance to them;

1061 (viii) determine by means of field studies and sampling the degree of air contamination
1062 and air pollution in all parts of the state;

1063 (ix) monitor the effects of the emission of air pollutants from motor vehicles on the
1064 quality of the outdoor atmosphere in all parts of Utah and take appropriate responsive action;

1065 (x) collect and disseminate information relating to air contamination and air pollution

1066 and conduct educational and training programs relating to air contamination and air pollution;

1067 (xi) assess and collect noncompliance penalties as required in Section 120 of the
1068 federal Clean Air Act, 42 U.S.C. Section 7420;

1069 (xii) comply with the requirements of federal air pollution laws;

1070 (xiii) subject to the provisions of this chapter, enforce rules through the issuance of
1071 orders, including:

1072 (A) prohibiting or abating discharges of wastes affecting ambient air;

1073 (B) requiring the construction of new control facilities or any parts of new control
1074 facilities or the modification, extension, or alteration of existing control facilities or any parts
1075 of new control facilities; or

1076 (C) adopting other remedial measures to prevent, control, or abate air pollution; and

1077 (xiv) as authorized by the board and subject to the provisions of this chapter, act as
1078 executive secretary of the board under the direction of the chairman of the board.

1079 (b) The director may:

1080 (i) employ full-time, temporary, part-time, and contract employees necessary to carry
1081 out this chapter;

1082 (ii) subject to the provisions of this chapter, authorize an employee or representative of
1083 the department to enter at reasonable [~~time~~] times and upon reasonable notice in or upon public
1084 or private property for the purposes of inspecting and investigating conditions and plant records
1085 concerning possible air pollution;

1086 (iii) encourage, participate in, or conduct studies, investigations, research, and
1087 demonstrations relating to air pollution and its causes, effects, prevention, abatement, and
1088 control, as advisable and necessary for the discharge of duties assigned under this chapter,
1089 including the establishment of inventories of pollution sources;

1090 (iv) collect and disseminate information relating to air pollution and the prevention,
1091 control, and abatement of it;

1092 (v) cooperate with studies and research relating to air pollution and its control,
1093 abatement, and prevention;

1094 (vi) subject to Subsection (3), upon request, consult concerning the following with a
1095 person proposing to construct, install, or otherwise acquire an air pollutant source in Utah:

1096 (A) the efficacy of proposed air pollution control equipment for the source; or

1097 (B) the air pollution problem that may be related to the source;

1098 (vii) accept, receive, and administer grants or other funds or gifts from public and
1099 private agencies, including the federal government, for the purpose of carrying out any of the
1100 functions of this chapter;

1101 (viii) subject to Subsection 19-2-104(3)(b)(i), settle or compromise a civil action
1102 initiated by the division to compel compliance with this chapter or the rules made under this
1103 chapter; or

1104 (ix) subject to the provisions of this chapter, exercise all incidental powers necessary to
1105 carry out the purposes of this chapter, including certification to state or federal authorities for
1106 tax purposes that air pollution control equipment has been certified in conformity with Title 19,
1107 Chapter 12, Pollution Control Act.

1108 (3) A consultation described in Subsection (2)(b)(vi) does not relieve a person from the
1109 requirements of this chapter, the rules adopted under this chapter, or any other provision of
1110 law.

1111 Section 13. Section 19-3-105 is amended to read:

1112 **19-3-105. Definitions -- Legislative and gubernatorial approval required for**
1113 **radioactive waste license -- Exceptions -- Application for new, renewed, or amended**
1114 **license.**

1115 (1) As used in this section:

1116 (a) "Alternate feed material" has the same definition as provided in Section 59-24-102.

1117 (b) "Approval application" means an application by a radioactive waste facility
1118 regulated under this chapter or Title 19, Chapter 5, Water Quality Act, for a permit, license,
1119 registration, certification, or other authorization.

1120 (c) (i) "Class A low-level radioactive waste" means:

1121 (A) radioactive waste that is classified as class A waste under 10 C.F.R. 61.55; and

1122 (B) radium-226 up to a maximum radionuclide concentration level of 10,000
1123 picocuries per gram.

1124 (ii) "Class A low-level radioactive waste" does not include:
1125 (A) uranium mill tailings;
1126 (B) naturally occurring radioactive materials; or
1127 (C) the following radionuclides if classified as "special nuclear material" under the
1128 Atomic Energy Act of 1954, 42 U.S.C. 2014:
1129 (I) uranium-233; and
1130 (II) uranium-235 with a radionuclide concentration level greater than the concentration
1131 limits for specific conditions and enrichments established by an order of the Nuclear
1132 Regulatory Commission:
1133 (Aa) to ensure criticality safety for a radioactive waste facility in the state; and
1134 (Bb) in response to a request, submitted prior to January 1, 2004, from a radioactive
1135 waste facility in the state to the Nuclear Regulatory Commission to amend the facility's special
1136 nuclear material exemption order.

1137 (d) (i) "Radioactive waste facility" or "facility" means a facility that decays radioactive
1138 waste in storage, treats radioactive waste, or disposes of radioactive waste:
1139 (A) commercially for profit; or
1140 (B) generated at locations other than the radioactive waste facility.

1141 (ii) "Radioactive waste facility" does not include a facility that receives:
1142 (A) alternate feed material for reprocessing; or
1143 (B) radioactive waste from a location in the state designated as a processing site under
1144 42 U.S.C. 7912(f).

1145 (e) "Radioactive waste license" or "license" means a radioactive material license issued
1146 by the director [~~under Subsection 19-3-108(2)(d),~~] to own, construct, modify, or operate a
1147 radioactive waste facility.

1148 (2) The provisions of this section are subject to the prohibition under Section
1149 19-3-103.7.

1150 (3) Subject to Subsection (8), a person may not own, construct, modify, or operate a
1151 radioactive waste facility without:

1152 (a) having received a radioactive waste license for the facility;

1153 (b) meeting the requirements established by rule under Section 19-3-104;

1154 (c) the approval of the governing body of the municipality or county responsible for
1155 local planning and zoning where the radioactive waste is or will be located; and

1156 (d) subsequent to meeting the requirements of Subsections (3)(a) through (c), the
1157 approval of the governor and the Legislature.

1158 (4) Subject to Subsection (8), a new radioactive waste license application, or an
1159 application to renew or amend an existing radioactive waste license, is subject to the
1160 requirements of Subsections (3)(b) through (d) if the application, renewal, or amendment:

1161 (a) specifies a different geographic site than a previously submitted application;

1162 (b) would cost 50% or more of the cost of construction of the original radioactive
1163 waste facility or the modification would result in an increase in capacity or throughput of a
1164 cumulative total of 50% of the total capacity or throughput which was approved in the facility
1165 license as of January 1, 1990, or the initial approval facility license if the initial license
1166 approval is subsequent to January 1, 1990; or

1167 (c) requests approval to decay radioactive waste in storage, treat radioactive waste, or
1168 dispose of radioactive waste having a higher radionuclide concentration limit than allowed,
1169 under an existing approved license held by the facility, for the specific type of waste to be
1170 decayed in storage, treated, or disposed of.

1171 (5) The requirements of Subsection (4)(c) do not apply to an application to renew or
1172 amend an existing radioactive waste license if:

1173 (a) the radioactive waste facility requesting the renewal or amendment has received a
1174 license prior to January 1, 2004; and

1175 (b) the application to renew or amend its license is limited to a request to approve the
1176 receipt, transfer, storage, decay in storage, treatment, or disposal of class A low-level
1177 radioactive waste.

1178 (6) A radioactive waste facility that receives a new radioactive waste license after May
1179 3, 2004, is subject to the requirements of Subsections (3)(b) through (d) for any license
1180 application, renewal, or amendment that requests approval to decay radioactive waste in
1181 storage, treat radioactive waste, or dispose of radioactive waste not previously approved under
1182 an existing license held by the facility.

1183 (7) If the board finds that approval of additional radioactive waste license applications,
1184 renewals, or amendments will result in inadequate oversight, monitoring, or licensure
1185 compliance and enforcement of existing and any additional radioactive waste facilities, the
1186 board shall suspend acceptance of further applications for radioactive waste licenses. The
1187 board shall report the suspension to the Legislative Management Committee.

1188 (8) The requirements of Subsections (3)(c) and (d) and Subsection 19-3-104(10) do not
1189 apply to:

1190 (a) a radioactive waste license that is in effect on December 31, 2006, including all
1191 amendments to the license that have taken effect as of December 31, 2006;

1192 (b) a license application for a facility in existence as of December 31, 2006, unless the
1193 license application includes an area beyond the facility boundary approved in the license
1194 described in Subsection (8)(a); or

1195 (c) an application to renew or amend a license described in Subsection (8)(a), unless
1196 the renewal or amendment includes an area beyond the facility boundary approved in the
1197 license described in Subsection (8)(a).

1198 (9) (a) The director shall review an approval application to determine whether the
1199 application complies with the requirements of this chapter and the rules of the board.

1200 (b) Within 60 days after the day on which the director receives an approval application
1201 described in Subsection (10)(a)(ii) or (iii), the director shall:

1202 (i) determine whether the application is complete and contains all the information
1203 necessary to process the application for approval; and

1204 (ii) (A) issue a notice of completeness to the applicant; or

1205 (B) issue a notice of deficiency to the applicant and list the additional information

1206 necessary to complete the application.

1207 (c) The director shall review information submitted in response to a notice of
1208 deficiency within 30 days after the day on which the director receives the information.

1209 (10) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah
1210 Administrative Rulemaking Act, to:

1211 (a) categorize approval applications as follows:

1212 (i) approval applications that:

1213 (A) are administrative in nature;

1214 (B) require limited scrutiny by the director; and

1215 (C) do not require public input;

1216 (ii) approval applications that:

1217 (A) require substantial scrutiny by the director;

1218 (B) require public input; and

1219 (C) are not described in Subsection (10)(a)(iii); and

1220 (iii) approval applications for:

1221 (A) the granting or renewal of a radioactive waste license;

1222 (B) the granting or renewal of a groundwater permit issued by the director for a
1223 radioactive waste facility;

1224 (C) an amendment to a radioactive waste license, or a groundwater permit, that allows
1225 the design and approval of a new disposal cell;

1226 (D) an amendment to a radioactive waste license or groundwater discharge permit for a
1227 radioactive waste facility to eliminate groundwater monitoring; and

1228 (E) a radioactive waste facility closure plan;

1229 (b) provide time periods for the director to review, and approve or deny, an application
1230 described in Subsection (10)(a) as follows:

1231 (i) for applications categorized under Subsection (10)(a)(i), within 30 days after the day
1232 on which the director receives the application;

1233 (ii) for applications categorized under Subsection (10)(a)(ii), within 180 days after the

1234 day on which the director receives the application;

1235 (iii) for applications categorized under Subsection (10)(a)(iii), as follows:

1236 (A) for a new radioactive waste license, within 540 days after the day on which the

1237 director receives the application;

1238 (B) for a new groundwater permit issued by the director for a radioactive waste facility

1239 consistent with the provisions of Title 19, Chapter 5, Water Quality Act, within 540 days after

1240 the day on which the director receives the application;

1241 (C) for a radioactive waste license renewal, within 365 days after the day on which the

1242 director receives the application;

1243 (D) for a groundwater permit renewal issued by the director for a radioactive waste

1244 facility, within 365 days after the day on which the director receives the application;

1245 (E) for an amendment to a radioactive waste license, or a groundwater permit, that

1246 allows the design and approval of a new disposal cell, within 365 days after the day on which

1247 the director receives the application;

1248 (F) for an amendment to a radioactive waste license, or a groundwater discharge

1249 permit, for a radioactive waste facility to eliminate groundwater monitoring, within 365 days

1250 after the day on which the director receives the application; and

1251 (G) for a radioactive waste facility closure plan, within 365 days after the day on which

1252 the director receives the application;

1253 (c) toll the time periods described in Subsection (10)(b):

1254 (i) while an owner or operator of a facility responds to the director's request for

1255 information;

1256 (ii) during a public comment period; or

1257 (iii) while the federal government reviews the application; and

1258 (d) require the director to prepare a detailed written explanation of the basis for the

1259 director's approval or denial of an approval application.

1260 Section 14. Section **19-3-301** is amended to read:

1261 **19-3-301. Restrictions on nuclear waste placement in state.**

1262 (1) The placement, including transfer, storage, decay in storage, treatment, or disposal,
1263 within the exterior boundaries of Utah of high-level nuclear waste or greater than class C
1264 radioactive waste is prohibited.

1265 (2) Notwithstanding Subsection (1) the governor, after consultation with the county
1266 executive and county legislative body of the affected county and with concurrence of the
1267 Legislature, may specifically approve the placement as provided in this part, but only if:

1268 (a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the
1269 Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A.
1270 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear
1271 waste or greater than class C radioactive waste; and

1272 (ii) the authority of the federal Nuclear Regulatory Commission to grant a license
1273 under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent
1274 jurisdiction; or

1275 (b) an agency of the federal government is transporting the waste, and all state and
1276 federal requirements to proceed with the transportation have been met.

1277 (3) The requirement for the approval of a final court of competent jurisdiction shall be
1278 met in all of the following categories, in order for a state license proceeding regarding waste to
1279 begin:

1280 (a) transfer or transportation, by rail, truck, or other mechanisms;

1281 (b) storage, including any temporary storage at a site away from the generating reactor;

1282 (c) decay in storage;

1283 (d) treatment; and

1284 (e) disposal.

1285 (4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category
1286 listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the
1287 governor, with the concurrence of the attorney general, shall certify in writing to the executive
1288 director of the Department of Environmental Quality that all of the requirements have been
1289 met, and that any necessary state licensing processes may begin.

1290 (b) Separate certification under this Subsection (4) shall be given for each category in
1291 Subsection (3).

1292 (5) (a) The department shall make, by rule, a determination of the dollar amount of the
1293 health and economic costs expected to result from a reasonably foreseeable accidental release
1294 of waste involving a transfer facility or storage facility, or during transportation of waste,
1295 within the exterior boundaries of the state. The department may initiate rulemaking under this
1296 Subsection (5)(a) on or after March 15, 2001.

1297 (b) (i) The department shall also determine the dollar amount currently available to
1298 cover the costs as determined in Subsection (5)(a):

- 1299 (A) under nuclear industry self-insurance;
- 1300 (B) under federal insurance requirements; and
- 1301 (C) in federal money.

1302 (ii) The department may not include any calculations of federal money that may be
1303 appropriated in the future in determining the amount under Subsection (5)(b)(i).

1304 (c) The department shall use the information compiled under Subsections (5)(a) and (b)
1305 to determine the amount of unfunded potential liability in the event of a release of waste from a
1306 storage or transfer facility, or a release during the transportation of waste.

1307 (6) (a) State agencies may not, for the purpose of providing any goods, services, or
1308 municipal-type services to a storage facility or transfer facility, or to any organization engaged
1309 in the transportation of waste, enter into any contracts or any other agreements prior to:

- 1310 (i) the satisfaction of the conditions in Subsection (4); and
- 1311 (ii) the executive director of the department having certified that the requirements of
1312 Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application
1313 proceeding for a storage facility or transfer facility.

1314 (b) Political subdivisions of the state may not enter into any contracts or any other
1315 agreements for the purpose of providing any goods, services, or municipal-type services to a
1316 storage facility or transfer facility, or to any organization engaged in the transportation of
1317 waste.

1318 (c) This Subsection (6) does not prohibit a state agency from exercising the regulatory
1319 authority granted to it by law.

1320 (7) (a) Notwithstanding any other provision of law, any political subdivision may not
1321 be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or
1322 municipal-type services to a storage facility or transfer facility prior to the satisfaction of the
1323 conditions in Subsection (4). These political subdivisions include:

1324 (i) a cooperative;

1325 (ii) a local district authorized by Title 17B, Limited Purpose Local Government
1326 Entities - Local Districts;

1327 (iii) a special service district under Title 17D, Chapter 1, Special Service District Act;

1328 (iv) a limited purpose local governmental [~~entities~~] entity authorized by Title 17,
1329 Counties;

1330 (v) any joint power agreement authorized by Title 11, Cities, Counties, and Local
1331 Taxing Units; and

1332 (vi) the formation of a municipality, or any authority of a municipality authorized by
1333 Title 10, Utah Municipal Code.

1334 (b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision
1335 authorized and formed under the laws of the state on or after March 15, 2001, which
1336 subsequently contracts to, or in any manner agrees to provide, or does provide goods, services,
1337 or municipal-type services to a storage facility or transfer facility is formed in violation of
1338 Subsection (7)(a).

1339 (ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political
1340 subdivision are considered to have knowingly violated a provision of this part, and the
1341 penalties of Section [19-3-312](#) apply.

1342 (8) (a) An organization may not be formed for the purpose of providing any goods,
1343 services, or municipal-type services to a storage facility or transfer facility prior to:

1344 (i) the satisfaction of the conditions in Subsection (4); and

1345 (ii) the executive director of the department having certified that the requirements of

1346 Sections 19-3-304 through 19-3-308 have been met.

1347 (b) A foreign organization may not be registered to do business in the state for the
1348 purpose of providing any goods, services, or municipal-type services to a storage facility or
1349 transfer facility prior to:

1350 (i) the satisfaction of the conditions in Subsection (4); and

1351 (ii) the executive director of the department having certified that the requirements of
1352 Sections 19-3-304 through 19-3-308 have been met.

1353 (c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

1354 (i) the formation of a new organization or registration of a foreign organization within
1355 the state, any of whose purposes are to provide goods, services, or municipal-type services to a
1356 storage facility or transfer facility may not be licensed or registered in the state, and the local or
1357 foreign organization is void and does not have authority to operate within the state;

1358 (ii) any organization which is formed or registered on or after March 15, 2001, and
1359 which subsequently contracts to, or in any manner agrees to provide, or does provide goods,
1360 services, or municipal-type services to a storage facility or transfer facility has been formed or
1361 registered in violation of Subsection (8)(a) or (b) respectively; and

1362 (iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the
1363 organization or the principals of the foreign organization, are considered to have knowingly
1364 violated a provision of this part, and are subject to the penalties in Section 19-3-312.

1365 (9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type
1366 services to any organization engaging in, or attempting to engage in the placement of high-level
1367 nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility
1368 within the state are declared to be against the greater public interest, health, and welfare of the
1369 state, by promoting an activity which has the great potential to cause extreme public harm.

1370 (ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or
1371 informal, are declared to be void from inception, agreement, or execution as against public
1372 policy.

1373 (b) (i) Any contract or other agreement to provide goods, services, or municipal-type

1374 services to storage or transfer facilities may not be executed within the state.

1375 (ii) Any contract or other agreement, existing or executed on or after March 15, 2001,
1376 is considered void from the time of agreement or execution.

1377 (10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual
1378 transaction fee of 75% of the gross value of the contract to the party providing the goods,
1379 services, or municipal-type services to the storage facility or transfer facility or transportation
1380 entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or
1381 before the last day of each month in accordance with rules established under Subsection
1382 (10)(d), and as follows:

1383 (i) 25% of the gross value of the contract to the department; and

1384 (ii) 50% of the gross value of the contract to the Department of Heritage and Arts, to be
1385 used by the Utah Division of Indian Affairs as provided in Subsection (11).

1386 (b) Contracts and agreements subject to the fee under Subsection (10)(a) are those
1387 contracts and agreements to provide goods, services, or municipal-type services to a storage or
1388 transfer facility, or to any organization engaged in the transportation of high-level nuclear
1389 waste or greater than class C radioactive waste to a transfer facility or storage facility, and
1390 which:

1391 (i) are in existence on March 15, 2001; or

1392 (ii) become effective notwithstanding Subsection (9)(a).

1393 (c) Any governmental agency which regulates the charges to consumers for services
1394 provided by utilities or other organizations shall require the regulated utility or organization to
1395 include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods,
1396 services, or municipal-type services affected by Subsection (10)(b).

1397 (d) (i) The department, in consultation with the State Tax Commission, shall establish
1398 rules for the valuation of the contracts and assessment and collection of the fees, and other
1399 rules as necessary to determine the amount of and collection of the fee under Subsection
1400 (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after
1401 March 15, 2001.

1402 (ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall
1403 make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and
1404 remit that amount to the department on or before July 31, 2001.

1405 (11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to
1406 the Department of Heritage and Arts for use by the Utah Division of Indian Affairs shall be
1407 used for establishment of a statewide community and economic development program for the
1408 tribes of Native American people within the exterior boundaries of the state who have by tribal
1409 procedure established a position rejecting siting of any nuclear waste facility on their
1410 reservation lands.

1411 (b) The program under Subsection (11)(a) shall include:

- 1412 (i) educational services and facilities;
- 1413 (ii) health care services and facilities;
- 1414 (iii) programs of economic development;
- 1415 (iv) utilities;
- 1416 (v) sewer;
- 1417 (vi) street lighting;
- 1418 (vii) roads and other infrastructure; and
- 1419 (viii) oversight and staff support for the program.

1420 (12) It is the intent of the Legislature that this part does not prohibit or interfere with a
1421 person's exercise of the rights under the First Amendment to the Constitution of the United
1422 States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a
1423 storage facility or transfer facility within the borders of the state for the placement of high-level
1424 nuclear waste or greater than class C radioactive waste.

1425 Section 15. Section **19-5-107** is amended to read:

1426 **19-5-107. Discharge of pollutants unlawful -- Discharge permit required.**

1427 (1) (a) Except as provided in this chapter or rules made under it, it is unlawful for any
1428 person to discharge a pollutant into waters of the state or to cause pollution which constitutes a
1429 menace to public health and welfare, or is harmful to wildlife, fish, or aquatic life, or impairs

1430 domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or
1431 cause to be placed any ~~wastes~~ waste in a location where there is probable cause to believe it
1432 will cause pollution.

1433 (b) For purposes of injunctive relief, any violation of this subsection is a public
1434 nuisance.

1435 (2) (a) A person may not generate, store, treat, process, use, transport, dispose, or
1436 otherwise manage sewage sludge, except in compliance with this chapter and rules made under
1437 it.

1438 (b) For purposes of injunctive relief, any violation of this subsection is a public
1439 nuisance.

1440 (3) It is unlawful for any person, without first securing a permit from the director, to:

1441 (a) make any discharge or manage sewage sludge not authorized under an existing
1442 valid discharge permit; or

1443 (b) construct, install, modify, or operate any treatment works or part of any treatment
1444 works or any extension or addition to any treatment works, or construct, install, or operate any
1445 establishment or extension or modification of or addition to any treatment works, the operation
1446 of which would probably result in a discharge.

1447 Section 16. Section **19-6-102.1** is amended to read:

1448 **19-6-102.1. Treatment and disposal -- Exclusions.**

1449 As used in Subsections [19-6-104\(3\)\(e\)\(ii\)\(B\)](#), [19-6-108\(3\)\(b\)](#), [19-6-108\(3\)\(c\)\(ii\)\(B\)](#),
1450 and [19-6-119\(1\)\(a\)](#), [~~and [19-3-103.5\(2\)\(f\)\(i\)](#) and [\(ii\)](#);~~] the term "treatment and disposal"

1451 specifically excludes the recycling, use, reuse, or reprocessing of fly ash waste, bottom ash
1452 waste, slag waste, or flue gas emission control waste generated primarily from the combustion
1453 of coal or other fossil fuels; waste from the extraction, beneficiation, and processing of ores
1454 and minerals; or cement kiln dust, including recycle, reuse, use, or reprocessing for road
1455 sanding, sand blasting, road construction, railway ballast, construction fill, aggregate, and other
1456 construction-related purposes.

1457 Section 17. Section **19-6-105** is amended to read:

1458 **19-6-105. Rules of board.**

1459 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah
1460 Administrative Rulemaking Act:

1461 (a) establishing minimum standards for protection of human health and the
1462 environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of
1463 solid waste, including requirements for the approval by the director of plans for the
1464 construction, extension, operation, and closure of solid waste disposal sites;

1465 (b) identifying wastes which are determined to be hazardous, including wastes
1466 designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of
1467 1976, 42 U.S.C., Sec. 6921, et seq.;

1468 (c) governing generators and transporters of hazardous wastes and owners and
1469 operators of hazardous waste treatment, storage, and disposal facilities, including requirements
1470 for keeping records, monitoring, submitting reports, and using a manifest, without treating
1471 high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling
1472 muds, and oil production brines in a manner more stringent than they are treated under federal
1473 standards;

1474 (d) requiring an owner or operator of a treatment, storage, or disposal facility that is
1475 subject to a plan approval under Section 19-6-108 or which received waste after July 26, 1982,
1476 to take appropriate corrective action or other response measures for releases of hazardous waste
1477 or hazardous waste constituents from the facility, including releases beyond the boundaries of
1478 the facility;

1479 (e) specifying the terms and conditions under which the director shall approve,
1480 disapprove, revoke, or review hazardous wastes operation plans;

1481 (f) governing public hearings and participation under this part;

1482 (g) establishing standards governing underground storage tanks, in accordance with
1483 Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

1484 (h) relating to the collection, transportation, processing, treatment, storage, and
1485 disposal of infectious waste in health facilities in accordance with the requirements of Section

1486 19-6-106;

1487 (i) defining closure plans as major or minor;

1488 (j) defining modification plans as major or minor; and

1489 (k) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or

1490 organic waste substance of any kind to be thrown, or remain upon or in any street, road, ditch,

1491 canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or

1492 well.

1493 (2) If any of the following are determined to be hazardous waste and are therefore

1494 subjected to the provisions of this part, the board shall, in the case of landfills or surface

1495 impoundments that receive the solid wastes, take into account the special characteristics of the

1496 wastes, the practical difficulties associated with applying requirements for other wastes to the

1497 wastes, and [~~site-specific~~] site-specific characteristics, including the climate, geology,

1498 hydrology, and soil chemistry at the site, if the modified requirements assure protection of

1499 human health and the environment and are no more stringent than federal standards applicable

1500 to [~~wastes~~] waste:

1501 (a) solid waste from the extraction, beneficiation, or processing of ores and minerals,

1502 including phosphate rock and overburden from the mining of uranium;

1503 (b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste

1504 generated primarily from the combustion of coal or other fossil fuels; and

1505 (c) cement kiln dust waste.

1506 (3) The board shall establish criteria for siting commercial hazardous waste treatment,

1507 storage, and disposal facilities, including commercial hazardous waste incinerators. Those

1508 criteria shall apply to any facility or incinerator for which plan approval is required under

1509 Section 19-6-108.

1510 Section 18. Section 19-6-402 is amended to read:

1511 **19-6-402. Definitions.**

1512 As used in this part:

1513 (1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:

- 1514 (a) a release from an underground storage tank or petroleum storage tank; or
1515 (b) the damage caused by that release.
- 1516 (2) "Board" means the Waste Management and Radiation Control Board created in
1517 Section 19-1-106.
- 1518 (3) "Bodily injury" means bodily harm, sickness, disease, or death sustained by a
1519 person.
- 1520 (4) "Certificate of compliance" means a certificate issued to a facility by the director:
1521 (a) demonstrating that an owner or operator of a facility containing one or more
1522 petroleum storage tanks has met the requirements of this part; and
1523 (b) listing all tanks at the facility, specifying:
1524 (i) which tanks may receive petroleum; and
1525 (ii) which tanks have not met the requirements for compliance.
- 1526 (5) "Certificate of registration" means a certificate issued to a facility by the director
1527 demonstrating that an owner or operator of a facility containing one or more underground
1528 storage tanks has:
1529 (a) registered the tanks; and
1530 (b) paid the annual underground storage tank fee.
- 1531 (6) (a) "Certified underground storage tank consultant" means a person who:
1532 (i) for a fee, or in connection with services for which a fee is charged, provides or
1533 contracts to provide information, opinions, or advice relating to underground storage tank
1534 release:
1535 (A) management;
1536 (B) abatement;
1537 (C) investigation;
1538 (D) corrective action; or
1539 (E) evaluation;
1540 (ii) has submitted an application to the director;
1541 (iii) received a written statement of certification from the director; and

- 1542 (iv) meets the education and experience standards established by the board under
1543 Subsection 19-6-403(1)(a)(vii).
- 1544 (b) "Certified underground storage tank consultant" does not include:
- 1545 (i) (A) an employee of the owner or operator of the underground storage tank; or
1546 (B) an employee of a business operation that has a business relationship with the owner
1547 or operator of the underground storage tank, and markets petroleum products or manages
1548 underground storage tanks; or
- 1549 (ii) a person licensed to practice law in this state who offers only legal advice on
1550 underground storage tank release:
- 1551 (A) management;
1552 (B) abatement;
1553 (C) investigation;
1554 (D) corrective action; or
1555 (E) evaluation.
- 1556 (7) "Closed" means an underground storage tank no longer in use that has been:
- 1557 (a) emptied and cleaned to remove all liquids and accumulated sludges; and
1558 (b) (i) removed from the ground; or
1559 (ii) filled with an inert solid material.
- 1560 (8) "Corrective action plan" means a plan for correcting a release from a petroleum
1561 storage tank that includes provisions for any of the following:
- 1562 (a) cleanup or removal of the release;
1563 (b) containment or isolation of the release;
1564 (c) treatment of the release;
1565 (d) correction of the cause of the release;
1566 (e) monitoring and maintenance of the site of the release;
1567 (f) provision of alternative water supplies to a person whose drinking water has
1568 become contaminated by the release; or
1569 (g) temporary or permanent relocation, whichever is determined by the director to be

1570 more cost-effective, of a person whose dwelling has been determined by the director to be no
1571 longer habitable due to the release.

1572 (9) "Costs" means money expended for:

1573 (a) investigation;

1574 (b) abatement action;

1575 (c) corrective action;

1576 (d) judgments, awards, and settlements for bodily injury or property damage to third
1577 parties;

1578 (e) legal and claims adjusting costs incurred by the state in connection with judgments,
1579 awards, or settlements for bodily injury or property damage to third parties; or

1580 (f) costs incurred by the state risk manager in determining the actuarial soundness of
1581 the fund.

1582 (10) "Covered by the fund" means the requirements of Section 19-6-424 have been
1583 met.

1584 (11) "Director" means the director of the Division of Environmental Response and
1585 Remediation.

1586 (12) "Division" means the Division of Environmental Response and Remediation,
1587 created in Subsection 19-1-105(1)(c).

1588 (13) "Dwelling" means a building that is usually occupied by a person lodging there at
1589 night.

1590 (14) "Enforcement proceedings" means a civil action or the procedures to enforce
1591 orders established by Section 19-6-425.

1592 (15) "Facility" means all underground storage tanks located on a single parcel of
1593 property or on any property adjacent or contiguous to that parcel.

1594 (16) "Fund" means the Petroleum Storage Tank Trust Fund created in Section
1595 19-6-409.

1596 (17) "Operator" means a person in control of or who is responsible on a daily basis for
1597 the maintenance of an underground storage tank that is in use for the storage, use, or dispensing

1598 of a regulated substance.

1599 (18) "Owner" means:

1600 (a) in the case of an underground storage tank in use on or after November 8, 1984, a
1601 person who owns an underground storage tank used for the storage, use, or dispensing of a
1602 regulated substance; and

1603 (b) in the case of an underground storage tank in use before November 8, 1984, but not
1604 in use on or after November 8, 1984, a person who owned the tank immediately before the
1605 discontinuance of its use for the storage, use, or dispensing of a regulated substance.

1606 (19) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

1607 (a) 60 degrees Fahrenheit; and

1608 (b) a pressure of 14.7 pounds per square inch absolute.

1609 (20) "Petroleum storage tank" means a tank that:

1610 (a) (i) is underground;

1611 (ii) is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42
1612 U.S.C. Sec. 6991c, et seq.; and

1613 (iii) contains petroleum; or

1614 (b) the owner or operator voluntarily submits for participation in the Petroleum Storage
1615 Tank Trust Fund under Section [19-6-415](#).

1616 (21) "Petroleum Storage Tank Restricted Account" means the account created in
1617 Section [19-6-405.5](#).

1618 (22) "Program" means the Environmental Assurance Program under Section
1619 [19-6-410.5](#).

1620 (23) "Property damage" means physical injury to, destruction of, or loss of use of
1621 tangible property.

1622 (24) (a) "Regulated substance" means petroleum and petroleum-based substances
1623 comprised of a complex blend of hydrocarbons derived from crude oil through processes of
1624 separation, conversion, upgrading, and finishing.

1625 (b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual

1626 fuel oils, lubricants, petroleum solvents, and used oils.

1627 (25) (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or
1628 disposing a regulated substance from an underground storage tank or petroleum storage tank.

1629 (b) A release of a regulated substance from an underground storage tank or petroleum
1630 storage tank is considered a single release from that tank system.

1631 (26) (a) "Responsible party" means a person who:

1632 (i) is the owner or operator of a facility;

1633 (ii) owns or has legal or equitable title in a facility or an underground storage tank;

1634 (iii) owned or had legal or equitable title in a facility at the time petroleum was
1635 received or contained at the facility;

1636 (iv) operated or otherwise controlled activities at a facility at the time petroleum was
1637 received or contained at the facility; or

1638 (v) is an underground storage tank installation company.

1639 (b) "Responsible party" is as defined in Subsections (26)(a)(i), (ii), and (iii) does not
1640 include:

1641 (i) a person who is not an operator and, without participating in the management of a
1642 facility and otherwise not engaged in petroleum production, refining, and marketing, holds
1643 indicia of ownership:

1644 (A) primarily to protect the person's security interest in the facility; or

1645 (B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an
1646 employee benefit plan; or

1647 (ii) governmental ownership or control of property by involuntary transfers as provided
1648 in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

1649 (c) The exemption created by Subsection (26)(b)(i)(B) does not apply to actions taken
1650 by the state or its officials or agencies under this part.

1651 (d) The terms and activities "indicia of ownership," "primarily to protect a security
1652 interest," "participation in management," and "security interest" under this part are in
1653 accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

1654 (e) The terms "participate in management" and "indicia of ownership" as defined in 40
1655 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to
1656 the fiduciaries listed in Subsection (26)(b)(i)(B).

1657 (27) "Soil test" means a test, established or approved by board rule, to detect the
1658 presence of petroleum in soil.

1659 (28) "State cleanup appropriation" means money appropriated by the Legislature to the
1660 department to fund the investigation, abatement, and corrective action regarding releases not
1661 covered by the fund.

1662 (29) "Underground storage tank" means a tank regulated under Subtitle I, Resource
1663 Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

- 1664 (a) a petroleum storage tank;
- 1665 (b) underground pipes and lines connected to a storage tank;
- 1666 (c) underground ancillary equipment;
- 1667 (d) a containment system; and
- 1668 (e) each compartment of a multi-compartment storage tank.

1669 (30) "Underground storage tank installation company" means a person, firm,
1670 partnership, corporation, governmental entity, association, or other organization [~~who~~] that
1671 installs underground storage tanks.

1672 (31) "Underground storage tank installation company permit" means a permit issued to
1673 an underground storage tank installation company by the director.

1674 (32) "Underground storage tank technician" means a person employed by and acting
1675 under the direct supervision of a certified underground storage tank consultant to assist in
1676 carrying out the functions described in Subsection (6)(a).

1677 Section 19. Section **19-6-503** is amended to read:

1678 **19-6-503. Powers and duties of public entities.**

1679 (1) Subject to the powers and rules of the department and except as provided by
1680 Section **19-6-507**, a governing body of a public entity may:

- 1681 (a) supervise and regulate the collection, transportation, and disposition of solid waste

1682 generated within its jurisdiction;

1683 (b) provide a solid waste management facility to adequately handle solid waste
1684 generated or existing within or without its jurisdiction;

1685 (c) assume, by agreement, responsibility for the collection and disposition of solid
1686 waste whether generated within or without its jurisdiction;

1687 (d) enter into a short- or long-term interlocal agreement to provide for or operate a
1688 solid waste management facility with:

1689 (i) another public entity;

1690 (ii) a public agency, as defined in Section 11-13-103;

1691 (iii) a private person; or

1692 (iv) a combination of persons listed in Subsections (1)(d)(i) through (iii);

1693 (e) levy and collect a tax, fee, or charge or require a license as may be appropriate to
1694 discharge its responsibility for the acquisition, construction, operation, maintenance, and
1695 improvement of a solid waste management facility, including licensing a private collector
1696 operating within its jurisdiction;

1697 (f) require that solid waste generated within its jurisdiction be delivered to a solid
1698 waste management facility;

1699 (g) control the right to collect, transport, and dispose of solid waste generated within its
1700 jurisdiction;

1701 (h) agree that, according to Section 19-6-505, the exclusive right to collect, transport,
1702 and dispose of solid waste within its jurisdiction may be assumed by:

1703 (i) another public entity;

1704 (ii) a private person; or

1705 (iii) a combination of persons listed in Subsections (1)(h)(i) through (ii);

1706 (i) accept and disburse funds derived from a federal or state grant, a private source, or
1707 money that may be appropriated by the Legislature for the acquisition, construction, ownership,
1708 operation, maintenance, and improvement of a solid waste management facility;

1709 (j) contract for the lease or purchase of land, a facility, or a vehicle for the operation of

- 1710 a solid waste management facility;
- 1711 (k) establish one or more policies for the operation of a solid waste management
- 1712 facility, including:
- 1713 (i) hours of operation;
- 1714 (ii) character and kind of wastes accepted at a disposal site; and
- 1715 (iii) [~~another~~] any other policy necessary for the safety of the operating personnel;
- 1716 (l) sell or contract for the sale, according to a short or long-term agreement, of usable
- 1717 material, energy, fuel, or heat separated, extracted, recycled, or recovered from solid waste in a
- 1718 solid waste management facility, on terms in its best interest;
- 1719 (m) pledge, assign, or otherwise convey as security for the payment of bonds, revenues
- 1720 and receipts derived from the sale or contract or from the operation and ownership of a solid
- 1721 waste management facility or an interest in it;
- 1722 (n) issue a bond according to Title 11, Chapter 14, Local Government Bonding Act;
- 1723 (o) issue industrial development revenue bonds according to Title 11, Chapter 17, Utah
- 1724 Industrial Facilities and Development Act, to pay the costs of financing a project consisting of
- 1725 a solid waste management facility on behalf of an entity that constitutes the users of a solid
- 1726 waste management facility project within the meaning of Section 11-17-2;
- 1727 (p) agree to construct and operate or to provide for the construction and operation of a
- 1728 solid waste management facility project, which project manages the solid waste of a public
- 1729 entity or private person, according to one or more contracts and other arrangements provided
- 1730 for in a proceeding according to which a bond is issued; and
- 1731 (q) issue a bond to pay the cost of establishing reserves to pay principal and interest on
- 1732 the bonds as provided for in the proceedings according to which the bonds are issued.
- 1733 (2) The power to issue a bond under this section is in addition to the power to issue a
- 1734 bond under Title 11, Chapter 17, Utah Industrial Facilities and Development Act.
- 1735 Section 20. Section 19-6-706 is amended to read:
- 1736 **19-6-706. Disposal of used oil -- Prohibitions.**
- 1737 (1) (a) Except as authorized by the director, or by rule of the board, or as exempted in

1738 this section, a person may not place, discard, or otherwise dispose of used oil:

1739 (i) in any solid waste treatment, storage, or disposal facility operated by a political
1740 subdivision or a private entity, except as authorized for the disposal of used oil that is
1741 hazardous waste under state law;

1742 (ii) in sewers, drainage systems, septic tanks, surface or ground waters, watercourses,
1743 or any body of water; or

1744 (iii) on the ground.

1745 (b) A person who unknowingly disposes of used oil in violation of Subsection (1)(a)(i)
1746 is not guilty of a violation of this section.

1747 (2) (a) A person may dispose of an item or substance that contains de minimis amounts
1748 of oil in disposal facilities under Subsection (1)(a)(i) if:

1749 (i) to the extent reasonably possible all oil has been removed from the item or
1750 substance; and

1751 (ii) no free flowing oil remains in the item or substance.

1752 (b) (i) A nonterne plated used oil filter complies with this section if it is not mixed with
1753 hazardous waste and the oil filter has been gravity hot-drained by one of the following
1754 methods:

1755 (A) puncturing the filter antidrain back valve or the filter dome end and gravity
1756 hot-draining;

1757 (B) gravity hot-draining and crushing;

1758 (C) dismantling and gravity hot-draining; or

1759 (D) any other equivalent gravity hot-draining method that will remove used oil from
1760 the filter at least as effectively as the methods listed in this Subsection (2)(b)(i).

1761 (ii) As used in this Subsection (2), "gravity hot-drained" means drained for not less
1762 than 12 hours near operating temperature but above 60 degrees Fahrenheit.

1763 (iii) This Subsection (2) does not require a person who recycles an engine block to
1764 drain a used oil filter or remove a used oil filter from that engine block.

1765 (3) A person may not mix or commingle used oil with the following substances, except

1766 as incidental to the normal course of processing, mechanical, or industrial operations:

1767 (a) solid waste that is to be disposed of in any solid waste treatment, storage, or
1768 disposal facility, except as authorized by the director under this chapter; or

1769 (b) any hazardous waste so the resulting mixture may not be recycled or used for
1770 ~~[other]~~ another beneficial purpose as authorized under this part.

1771 (4) (a) This section does not apply to releases to land or water of de minimis quantities
1772 of used oil, except:

1773 (i) the release of de minimis quantities of used oil is subject to any regulation or
1774 prohibition under the authority of the department; and

1775 (ii) the release of de minimis quantities of used oil is subject to any rule made by the
1776 board under this part prohibiting the release of de minimis quantities of used oil to the land or
1777 water from tanks, pipes, or other equipment in which used oil is processed, stored, or otherwise
1778 managed by used oil handlers, except wastewater under Subsection 19-6-708(2)(j).

1779 (b) As used in this Subsection (4), "de minimis quantities of used oil:"

1780 (i) means small spills, leaks, or drippings from pumps, machinery, pipes, and other
1781 similar equipment during normal operations; and

1782 (ii) does not include used oil discarded as a result of abnormal operations resulting in
1783 substantial leaks, spills, or other releases.

1784 (5) Used oil may not be used for road oiling, dust control, weed abatement, or other
1785 similar uses that have the potential to release used oil in the environment, except in compliance
1786 with Section 19-6-711 and board rule.

1787 (6) (a) (i) Facilities in existence on July 1, 1993, and subject to this section may apply
1788 to the director for an extension of time beyond that date to meet the requirements of this
1789 section.

1790 (ii) The director may grant an extension of time beyond July 1, 1993, upon a finding of
1791 need under Subsection (6)(b) or (c).

1792 (iii) The total of all extensions of time granted to one applicant under this Subsection
1793 (6)(a) may not extend beyond January 1, 1995.

1794 (b) The director upon receipt of a request for an extension of time may request from the
1795 facility any information the director finds reasonably necessary to evaluate the need for an
1796 extension. This information may include:

1797 (i) why the facility is unable to comply with the requirements of this section on or
1798 before July 1, 1993;

1799 (ii) the processes or functions which prevent compliance on or before July 1, 1993;

1800 (iii) measures the facility has taken and will take to achieve compliance; and

1801 (iv) a proposed compliance schedule, including a proposed date for being in
1802 compliance with this section.

1803 (c) Additional extensions of time may be granted by the director upon application by
1804 the facility and a showing by the facility that:

1805 (i) the additional extension is reasonably necessary; and

1806 (ii) the facility has made a diligent and good faith effort to comply with this section
1807 within the time frame of the prior extension.

1808 Section 21. Section **20A-2-201** is amended to read:

1809 **20A-2-201. Registering to vote at office of county clerk.**

1810 (1) Except as provided in Subsection (3), the county clerk shall register to vote each
1811 individual who registers in person at the county clerk's office during designated office hours if
1812 the individual will, on the date of the election, be legally eligible to vote in a voting precinct in
1813 the county in accordance with Section [20A-2-101](#).

1814 (2) If an individual who is registering to vote submits a registration form in person at
1815 the office of the county clerk during designated office hours, during the period beginning on
1816 the date after the voter registration deadline and ending on the date that is 15 calendar days
1817 before the date of the election, the county clerk shall:

1818 (a) accept the form if the individual, on the date of the election, will be legally
1819 qualified and entitled to vote in a voting precinct in the county; and

1820 (b) inform the individual that the individual will be registered to vote in the pending
1821 election.

1822 (3) If an individual who is registering to vote and who will be legally qualified and
1823 entitled to vote in a voting precinct in the county on the date of an election appears in person,
1824 during designated office hours, and submits a registration form on the date of the election or
1825 during the 14 calendar days before an election, the county clerk shall:

1826 (a) accept the registration form; and

1827 (b) (i) if it is seven or more calendar days before the date of an election:

1828 (A) inform the individual that the individual is registered to vote in the pending
1829 election; and

1830 (B) for the pending election, the individual must vote on the day of the election and is
1831 not eligible to vote using early voting under Chapter 3, Part 6, Early Voting, because the
1832 individual registered too late; or

1833 (ii) ~~[except as provided in Subsection 20A-4-108(5),]~~ if it is on the date of an election
1834 or during the six calendar days before an election, inform the individual that the individual will
1835 be registered to vote but may not vote in the pending election because the individual registered
1836 too late.

1837 Section 22. Section **20A-3-601** is amended to read:

1838 **20A-3-601. Early voting.**

1839 (1) ~~[(a)]~~ An individual who is registered to vote may vote before the election date in
1840 accordance with this section.

1841 ~~[(b) An individual who is not registered to vote may register to vote and vote before the
1842 election date in accordance with this section if the individual:]~~

1843 ~~[(i) is otherwise legally entitled to vote the ballot in a jurisdiction that is approved by
1844 the lieutenant governor to participate in the pilot project described in Section 20A-4-108; and]~~

1845 ~~[(ii) casts a provisional ballot in accordance with Section 20A-4-108.]~~

1846 (2) Except as provided in Section 20A-1-308 or Subsection (3), the early voting period
1847 shall:

1848 (a) begin on the date that is 14 days before the date of the election; and

1849 (b) continue through the Friday before the election if the election date is a Tuesday.

1850 (3) An election officer may extend the end of the early voting period to the day before
1851 the election date if the election officer provides notice of the extension in accordance with
1852 Section 20A-3-604.

1853 (4) Except as provided in Section 20A-1-308, during the early voting period, the
1854 election officer:

1855 (a) for a local special election, a municipal primary election, and a municipal general
1856 election:

1857 (i) shall conduct early voting on a minimum of four days during each week of the early
1858 voting period; and

1859 (ii) shall conduct early voting on the last day of the early voting period; and

1860 (b) for all other elections:

1861 (i) shall conduct early voting on each weekday; and

1862 (ii) may elect to conduct early voting on a Saturday, Sunday, or holiday.

1863 (5) Except as specifically provided in this Part 6, Early Voting, or Section 20A-1-308,
1864 early voting shall be administered according to the requirements of this title.

1865 Section 23. Section 20A-4-103 is amended to read:

1866 **20A-4-103. Preparing ballot sheets for the counting center.**

1867 (1) (a) In voting precincts using ballot sheets, as soon as the polls have been closed and
1868 the last qualified voter has voted, the poll workers shall prepare the ballot sheets for delivery to
1869 the counting center as provided in this section.

1870 (b) The poll workers, election officers, and other persons may not manually count any
1871 votes before delivering the ballots to the counting center.

1872 (2) The poll workers shall:

1873 (a) place all of the provisional ballot envelopes in the envelope or container provided
1874 for them for return to the counting center; and

1875 (b) seal that envelope or container.

1876 (3) (a) The poll workers shall check each secrecy envelope to see if [~~either~~] the
1877 envelope contains any write-in votes.

1878 (b) If a secrecy envelope does not contain any write-in votes, the poll workers shall
1879 remove the ballot sheet from the secrecy envelope.

1880 (c) If a secrecy envelope contains any write-in votes, the poll workers may not separate
1881 the ballot sheet from the secrecy envelope.

1882 (4) The poll workers shall place:

1883 (a) the voted ballot sheets and one copy of the statement of disposition of ballots in the
1884 transfer case;

1885 (b) the other copy of the statement of disposition of ballots, the pollbook, any
1886 unprocessed absentee ballots, the poll workers' pay vouchers, the official register, and the
1887 spoiled ballot envelope in the carrier envelope provided; and

1888 (c) the other election materials in the election supply box.

1889 Section 24. Section **20A-4-107** is amended to read:

1890 **20A-4-107. Review and disposition of provisional ballot envelopes.**

1891 (1) As used in this section, a person is "legally entitled to vote" if:

1892 (a) the person:

1893 (i) is registered to vote in the state;

1894 (ii) votes the ballot for the voting precinct in which the person resides; and

1895 (iii) provides valid voter identification to the poll worker;

1896 (b) the person:

1897 (i) is registered to vote in the state;

1898 (ii) (A) provided valid voter identification to the poll worker; or

1899 (B) either failed to provide valid voter identification or the documents provided as
1900 valid voter identification were inadequate and the poll worker recorded that fact in the official
1901 register but the county clerk verifies the person's identity and residence through some other
1902 means; and

1903 (iii) did not vote in the person's precinct of residence, but the ballot that the person
1904 voted was from the person's county of residence and includes one or more candidates or ballot
1905 propositions on the ballot voted in the person's precinct of residence; or

1906 (c) the person:
1907 (i) is registered to vote in the state;
1908 (ii) either failed to provide valid voter identification or the documents provided as
1909 valid voter identification were inadequate and the poll worker recorded that fact in the official
1910 register; and
1911 (iii) (A) the county clerk verifies the person's identity and residence through some other
1912 means as reliable as photo identification; or
1913 (B) the person provides valid voter identification to the county clerk or an election
1914 officer who is administering the election by the close of normal office hours on Monday after
1915 the date of the election.
1916 (2) (a) Upon receipt of provisional ballot envelopes, the election officer shall review
1917 the affirmation on the face of each provisional ballot envelope and determine if the person
1918 signing the affirmation is:
1919 (i) registered to vote in this state; and
1920 (ii) legally entitled to vote:
1921 (A) the ballot that the person voted; or
1922 (B) if the ballot is from the person's county of residence, for at least one ballot
1923 proposition or candidate on the ballot that the person voted.
1924 (b) If the election officer determines that the person is not registered to vote in this
1925 state or is not legally entitled to vote in the county or for any of the ballot propositions or
1926 candidates on the ballot that the person voted, the election officer shall retain the ballot
1927 envelope, unopened, for the period specified in Section [20A-4-202](#) unless ordered by a court to
1928 produce or count it.
1929 (c) If the election officer determines that the person is registered to vote in this state
1930 and is legally entitled to vote in the county and for at least one of the ballot propositions or
1931 candidates on the ballot that the person voted, the election officer shall remove the ballot from
1932 the provisional ballot envelope and place the ballot with the absentee ballots to be counted with
1933 those ballots at the canvass.

1934 (d) The election officer may not count, or allow to be counted a provisional ballot
1935 unless the person's identity and residence is established by a preponderance of the evidence.

1936 (3) If the election officer determines that the person is registered to vote in this state,
1937 the election officer shall ensure that the voter registration records are updated to reflect the
1938 information provided on the provisional ballot envelope.

1939 (4) If the election officer determines that the person is not registered to vote in this
1940 state and the information on the provisional ballot envelope is complete, the election officer
1941 shall:

1942 (a) consider the provisional ballot envelope a voter registration form for the person's
1943 county of residence; and

1944 (b) (i) register the person if the voter's county of residence is within the county; or

1945 (ii) forward the voter registration form to the election officer of the person's county of
1946 residence, which election officer shall register the person.

1947 (5) Notwithstanding any provision of this section, the election officer shall remove the
1948 ballot from a provisional ballot envelope and place the ballot with the absentee ballots to be
1949 counted with those ballots at the canvass, if:

1950 (a) ~~(i)~~ the election officer determines, in accordance with the provisions of this
1951 section, that the sole reason a provisional ballot may not otherwise be counted is because the
1952 voter registration was filed less than eight days before the election;

1953 ~~(i)~~ (b) eight or more days before the election, the individual who cast the provisional
1954 ballot:

1955 ~~(A)~~ (i) completed and signed the voter registration; and

1956 ~~(B)~~ (ii) provided the voter registration to another person to file;

1957 ~~(iii)~~ (c) the late filing was made due to the person described in Subsection

1958 ~~(5)(a)(ii)(B)~~ (5)(b)(ii) filing the voter registration less than eight days before the election; and

1959 ~~(iv)~~ (d) the election officer receives the voter registration no later than one day before
1960 the day of the election~~;~~ or.

1961 ~~(b) the provisional ballot is cast on or before election day in a county or municipality~~

1962 that is approved by the lieutenant governor to participate in the pilot project and the provisional
1963 ballot is not otherwise prohibited from being counted under the provisions of this chapter.]

1964 Section 25. Section **20A-7-214** is amended to read:

1965 **20A-7-214. Fiscal review -- Repeal, amendment, or resubmission.**

1966 (1) No later than 60 days after the date of an election in which the voters approve an
1967 initiative petition, the Governor's Office of Management and Budget shall:

1968 (a) for each initiative approved by the voters, prepare a final fiscal impact statement,
1969 using current financial information and containing the information required by Subsection
1970 [20A-7-202.5\(2\)](#); and

1971 (b) deliver a copy of the final fiscal impact statement to:

1972 (i) the president of the Senate;

1973 (ii) the minority leader of the Senate;

1974 (iii) the speaker of the House of Representatives;

1975 (iv) the minority leader of the House of Representatives; and

1976 (v) the first five sponsors listed on the initiative application.

1977 (2) If the final fiscal impact statement exceeds the initial fiscal impact estimate by 25%
1978 or more, the Legislature shall review the final fiscal impact statement and may, in any
1979 legislative session following the election in which the voters approved the initiative petition:

1980 (a) repeal the law established by passage of the initiative;

1981 (b) amend the law established by passage of the initiative; or

1982 (c) pass a joint or concurrent resolution informing the voters that they may file an
1983 initiative petition to repeal the law enacted by the passage of the initiative.

1984 Section 26. Section **20A-9-405** is amended to read:

1985 **20A-9-405. Nomination petitions for regular primary elections.**

1986 (1) This section shall apply to the form and circulation of nomination petitions for
1987 regular primary elections described in Subsection [20A-9-403\(3\)\(a\)](#).

1988 (2) A candidate for elective office, and the agents of the candidate, may not circulate
1989 nomination petitions until the candidate has submitted a declaration of candidacy in accordance

1990 with Subsection [20A-9-202\(1\)](#).

1991 (3) The nomination petitions shall be in substantially the following form:

1992 (a) the petition shall be printed on paper 8-1/2 inches long and 11 inches wide;

1993 (b) the petition shall be ruled with a horizontal line 3/4 inch from the top, with the
1994 space above that line blank for purposes of binding;

1995 (c) the petition shall be headed by a caption stating the purpose of the petition and the
1996 name of the proposed candidate;

1997 (d) the petition shall feature the word "Warning" followed by the following statement
1998 in no less than eight-point, single leaded type: "It is a class A misdemeanor for anyone to
1999 knowingly sign a certificate of nomination signature sheet with any name other than the
2000 person's own name or more than once for the same candidate or if the person is not registered
2001 to vote in this state and does not intend to become registered to vote in this state before
2002 signatures are certified by a filing officer.";

2003 (e) the petition shall feature 10 lines spaced one-half inch apart and consecutively
2004 numbered one through 10;

2005 (f) the signature portion of the petition shall be divided into columns headed by the
2006 following titles:

2007 (i) Registered Voter's Printed Name;

2008 (ii) Signature of Registered Voter;

2009 (iii) Party Affiliation of Registered Voter;

2010 (iv) Birth Date or Age (Optional);

2011 (v) Street Address, City, Zip Code; and

2012 (vi) Date of Signature; and

2013 (g) a photograph of the candidate may appear on the nomination petition.

2014 (4) If one or more nomination petitions are bound together, a page shall be bound to
2015 the nomination petition(s) that features the following printed verification statement to be signed
2016 and dated by the petition circulator:

2017 "Verification

2018 State of Utah, County of ____

2019 I, ____, of ____, hereby state [~~under~~] that:

2020 I am a Utah resident and am at least 18 years old;

2021 All the names that appear on the signature sheets bound to this page were, to the best of
2022 my knowledge, signed by the persons who professed to be the persons whose names appear on
2023 the signature sheets, and each of them signed the person's name on the signature sheets in my
2024 presence;

2025 I believe that each has printed and signed the person's name and written the person's
2026 street address correctly, and that each signer is registered to vote in Utah or will register to vote
2027 in Utah before the county clerk certifies the signatures on the signature sheet."

2028 (5) The lieutenant governor shall prepare and make public model nomination petition
2029 forms and associated instructions.

2030 (6) A nomination petition circulator must be at least 18 years old and a resident of the
2031 state, but may affiliate with any political party.

2032 (7) It is unlawful for any person to:

2033 (a) knowingly sign the nomination petition sheet described in Subsection (3):

2034 (i) with any name other than the person's own name;

2035 (ii) more than once for the same candidate; or

2036 (iii) if the person is not registered to vote in this state and does not intend to become
2037 registered to vote in this state prior to 5 p.m. on the final day in March;

2038 (b) sign the verification of a certificate of nomination signature sheet described in
2039 Subsection (4) if the person:

2040 (i) does not meet the residency requirements of Section [20A-2-105](#);

2041 (ii) has not witnessed the signing by those persons whose names appear on the
2042 certificate of nomination signature sheet; or

2043 (iii) knows that a person whose signature appears on the certificate of nomination
2044 signature sheet is not registered to vote in this state and does not intend to become registered to
2045 vote in this state;

2046 (c) pay compensation to any person to sign a nomination petition; or
2047 (d) pay compensation to any person to circulate a nomination petition, if the
2048 compensation is based directly on the number of signatures submitted to a filing officer rather
2049 than on the number of signatures verified or on some other basis.

2050 (8) Any person violating Subsection (7) is guilty of a class A misdemeanor.

2051 (9) Withdrawal of petition signatures shall not be permitted.

2052 Section 27. Section **26-7-8** is amended to read:

2053 **26-7-8. Syringe exchange and education.**

2054 (1) The following may operate a syringe exchange program in the state to prevent the
2055 transmission of disease and reduce morbidity and mortality among individuals who inject
2056 drugs, and those individuals' contacts:

2057 (a) a government entity, including:

2058 (i) the department;

2059 (ii) a local health department, as defined in Section [26A-1-102](#);

2060 (iii) the Division of Substance Abuse and Mental Health within the Department of
2061 Human Services; or

2062 (iv) a local substance abuse authority, as defined in Section [62A-15-102](#);

2063 (b) a nongovernment entity, including:

2064 (i) a nonprofit organization; or

2065 (ii) a for-profit organization; or

2066 (c) any other entity that complies with Subsections (2) and ~~[(3)]~~ (4).

2067 (2) An entity operating a syringe exchange program in the state shall:

2068 (a) facilitate the exchange of an individual's used syringe for one or more new syringes
2069 in sealed sterile packages;

2070 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:

2071 (i) methods for preventing the transmission of blood-borne diseases, including hepatitis
2072 C and human immunodeficiency virus; and

2073 (ii) options for obtaining:

2074 (A) services for the treatment of a substance use disorder;
2075 (B) testing for a blood-borne disease; and
2076 (C) an opiate antagonist under Chapter 55, Opiate Overdose Response Act; and
2077 (c) report annually to the department the following information about the program's
2078 activities:
2079 (i) the number of individuals who have exchanged syringes;
2080 (ii) the number of used syringes exchanged for new syringes; and
2081 (iii) the number of new syringes provided in exchange for used syringes.
2082 (3) No later than October 1, 2017, and every two years thereafter, the department shall
2083 report to the Legislature's Health and Human Services Interim Committee on:
2084 (a) the activities and outcomes of syringe programs operating in the state, including:
2085 (i) the number of individuals who have exchanged syringes;
2086 (ii) the number of used syringes exchanged for new syringes;
2087 (iii) the number of new syringes provided in exchange for used syringes;
2088 (iv) the impact of the programs on blood-borne infection rates; and
2089 (v) the impact of the programs on the number of individuals receiving treatment for a
2090 substance use disorder;
2091 (b) the potential for additional reductions in the number of syringes contaminated with
2092 blood-borne disease if the programs receive additional funding;
2093 (c) the potential for additional reductions in state and local government spending if the
2094 programs receive additional funding;
2095 (d) whether the programs promote illicit use of drugs; and
2096 (e) whether the programs should be continued, continued with modifications, or
2097 terminated.
2098 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2099 Administrative Rulemaking Act, specifying how and when an entity operating a syringe
2100 exchange program shall make the report required by Subsection (2)(c).
2101 Section 28. Section **26-10-10** is amended to read:

2102 **26-10-10. Cytomegalovirus (CMV) public education and testing.**

2103 (1) As used in this section "CMV" means cytomegalovirus.

2104 (2) The department shall establish and conduct a public education program to inform
2105 pregnant women and women who may become pregnant regarding:

2106 (a) the incidence of CMV;

2107 (b) the transmission of CMV to pregnant women and women who may become
2108 pregnant;

2109 (c) birth defects caused by congenital CMV;

2110 (d) methods of diagnosing congenital CMV; and

2111 (e) available preventative measures.

2112 (3) The department shall provide the information described in Subsection (2) to:

2113 (a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing
2114 Act, and their employees;

2115 (b) a person described in Subsection ~~26-39-403[(1)(c), (f), (g), (h), (j), or (k)]~~ (1)(c) or
2116 (f), or (2)(a), (b), (c), or (e);

2117 (c) a person serving as a school nurse under Section ~~53A-11-204;~~

2118 (d) a person offering health education in a school district;

2119 (e) health care providers offering care to pregnant women and infants; and

2120 (f) religious, ecclesiastical, or denominational organizations offering children's
2121 programs as a part of worship services.

2122 (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection
2123 ~~26-10-6(1)~~, a medical practitioner shall:

2124 (a) test the newborn infant for CMV before the newborn is 21 days of age, unless a
2125 parent of the newborn infant objects; and

2126 (b) provide to the parents of the newborn infant information regarding:

2127 (i) birth defects caused by congenital CMV; and

2128 (ii) available methods of treatment.

2129 (5) The department shall provide to the family and the medical practitioner, if known,

2130 information regarding the testing requirements under Subsection (4) when providing results
2131 indicating that an infant has failed the newborn hearing screening test(s) under Subsection
2132 26-10-6(1).

2133 (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah
2134 Administrative Rulemaking Act, as necessary to administer the provisions of this section.

2135 Section 29. Section 26-18-3 is amended to read:

2136 **26-18-3. Administration of Medicaid program by department -- Reporting to the**
2137 **Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility**
2138 **standards -- Internal audits -- Health opportunity accounts.**

2139 (1) The department shall be the single state agency responsible for the administration
2140 of the Medicaid program in connection with the United States Department of Health and
2141 Human Services pursuant to Title XIX of the Social Security Act.

2142 (2) (a) The department shall implement the Medicaid program through administrative
2143 rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking
2144 Act, the requirements of Title XIX, and applicable federal regulations.

2145 (b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules
2146 necessary to implement the program:

2147 (i) the standards used by the department for determining eligibility for Medicaid
2148 services;

2149 (ii) the services and benefits to be covered by the Medicaid program;

2150 (iii) reimbursement methodologies for providers under the Medicaid program; and

2151 (iv) a requirement that:

2152 (A) a person receiving Medicaid services shall participate in the electronic exchange of
2153 clinical health records established in accordance with Section 26-1-37 unless the individual
2154 opts out of participation;

2155 (B) prior to enrollment in the electronic exchange of clinical health records the enrollee
2156 shall receive notice of enrollment in the electronic exchange of clinical health records and the
2157 right to opt out of participation at any time; and

2158 (C) beginning July 1, 2012, when the program sends enrollment or renewal information
2159 to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive
2160 notice of the right to opt out of the electronic exchange of clinical health records.

2161 (3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social
2162 Services Appropriations Subcommittee when the department:

2163 (i) implements a change in the Medicaid State Plan;

2164 (ii) initiates a new Medicaid waiver;

2165 (iii) initiates an amendment to an existing Medicaid waiver;

2166 (iv) applies for an extension of an application for a waiver or an existing Medicaid
2167 waiver; or

2168 (v) initiates a rate change that requires public notice under state or federal law.

2169 (b) The report required by Subsection (3)(a) shall:

2170 (i) be submitted to the Social Services Appropriations Subcommittee prior to the
2171 department implementing the proposed change; and

2172 (ii) include:

2173 (A) a description of the department's current practice or policy that the department is
2174 proposing to change;

2175 (B) an explanation of why the department is proposing the change;

2176 (C) the proposed change in services or reimbursement, including a description of the
2177 effect of the change;

2178 (D) the effect of an increase or decrease in services or benefits on individuals and
2179 families;

2180 (E) the degree to which any proposed cut may result in cost-shifting to more expensive
2181 services in health or human service programs; and

2182 (F) the fiscal impact of the proposed change, including:

2183 (I) the effect of the proposed change on current or future appropriations from the
2184 Legislature to the department;

2185 (II) the effect the proposed change may have on federal matching dollars received by

2186 the state Medicaid program;

2187 (III) any cost shifting or cost savings within the department's budget that may result
2188 from the proposed change; and

2189 (IV) identification of the funds that will be used for the proposed change, including any
2190 transfer of funds within the department's budget.

2191 (4) Any rules adopted by the department under Subsection (2) are subject to review and
2192 reauthorization by the Legislature in accordance with Section [63G-3-502](#).

2193 (5) The department may, in its discretion, contract with the Department of Human
2194 Services or other qualified agencies for services in connection with the administration of the
2195 Medicaid program, including:

2196 (a) the determination of the eligibility of individuals for the program;

2197 (b) recovery of overpayments; and

2198 (c) consistent with Section [26-20-13](#), and to the extent permitted by law and quality
2199 control services, enforcement of fraud and abuse laws.

2200 (6) The department shall provide, by rule, disciplinary measures and sanctions for
2201 Medicaid providers who fail to comply with the rules and procedures of the program, provided
2202 that sanctions imposed administratively may not extend beyond:

2203 (a) termination from the program;

2204 (b) recovery of claim reimbursements incorrectly paid; and

2205 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

2206 (7) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX
2207 of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to
2208 be used by the division in accordance with the requirements of Section 1919 of Title XIX of
2209 the federal Social Security Act.

2210 (8) (a) In determining whether an applicant or recipient is eligible for a service or
2211 benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department
2212 shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle
2213 designated by the applicant or recipient.

2214 (b) Before Subsection (8)(a) may be applied:
2215 (i) the federal government shall:
2216 (A) determine that Subsection (8)(a) may be implemented within the state's existing
2217 public assistance-related waivers as of January 1, 1999;
2218 (B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or
2219 (C) determine that the state's waivers that permit dual eligibility determinations for
2220 cash assistance and Medicaid are no longer valid; and
2221 (ii) the department shall determine that Subsection (8)(a) can be implemented within
2222 existing funding.
2223 (9) (a) For purposes of this Subsection (9):
2224 (i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as
2225 defined in 42 U.S.C. Sec. 1382c(a)(1); and
2226 (ii) "spend down" means an amount of income in excess of the allowable income
2227 standard that shall be paid in cash to the department or incurred through the medical services
2228 not paid by Medicaid.
2229 (b) In determining whether an applicant or recipient who is aged, blind, or has a
2230 disability is eligible for a service or benefit under this chapter, the department shall use 100%
2231 of the federal poverty level as:
2232 (i) the allowable income standard for eligibility for services or benefits; and
2233 (ii) the allowable income standard for eligibility as a result of spend down.
2234 (10) The department shall conduct internal audits of the Medicaid program.
2235 (11) (a) The department may apply for and, if approved, implement a demonstration
2236 program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.
2237 (b) A health opportunity account established under Subsection (11)(a) shall be an
2238 alternative to the existing benefits received by an individual eligible to receive Medicaid under
2239 this chapter.
2240 (c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.
2241 (12) (a) (i) The department shall apply for, and if approved, implement an amendment

2242 to the state plan under this Subsection (12) for benefits for:

2243 (A) medically needy pregnant women;

2244 (B) medically needy children; and

2245 (C) medically needy parents and caretaker relatives.

2246 (ii) The department may implement the eligibility standards of Subsection (12)(b) for
2247 eligibility determinations made on or after the date of the approval of the amendment to the
2248 state plan.

2249 (b) In determining whether an applicant is eligible for benefits described in Subsection
2250 (12)(a)(i), the department shall:

2251 (i) disregard resources held in an account in the savings plan created under Title 53B,
2252 Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

2253 (A) under the age of 26; and

2254 (B) living with the account owner, as that term is defined in Section [53B-8a-102](#), or
2255 temporarily absent from the residence of the account owner; and

2256 (ii) include the withdrawals from an account in the Utah Educational Savings Plan as
2257 resources for a benefit determination, if the withdrawal was not used for qualified higher
2258 education costs as that term is defined in Section ~~[\[53B-8a-102\]](#)~~ [53B-8a-102.5](#).

2259 Section 30. Section **26-38-2** is amended to read:

2260 **26-38-2. Definitions.**

2261 As used in this chapter:

2262 (1) "E-cigarette":

2263 (a) means any electronic oral device:

2264 (i) that provides a vapor of nicotine or other substance; and

2265 (ii) which simulates smoking through its use or through inhalation of the device; and

2266 (b) includes an oral device that is:

2267 (i) composed of a heating element, battery, or electronic circuit; and

2268 (ii) marketed, manufactured, distributed, or sold as:

2269 (A) an e-cigarette;

- 2270 (B) e-cigar;
- 2271 (C) e-pipe; or
- 2272 (D) any other product name or descriptor, if the function of the product meets the
- 2273 definition of Subsection (1)(a).
- 2274 (2) "Place of public access" means any enclosed indoor place of business, commerce,
- 2275 banking, financial service, or other service-related activity, whether publicly or privately owned
- 2276 and whether operated for profit or not, to which persons not employed at the place of public
- 2277 access have general and regular access or which the public uses, including:
- 2278 (a) buildings, offices, shops, elevators, or restrooms;
- 2279 (b) means of transportation or common carrier waiting rooms;
- 2280 (c) restaurants, cafes, or cafeterias;
- 2281 (d) taverns as defined in Section [32B-1-102](#), or cabarets;
- 2282 (e) shopping malls, retail stores, grocery stores, or arcades;
- 2283 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
- 2284 sites, auditoriums, or arenas;
- 2285 (g) barber shops, hair salons, or laundromats;
- 2286 (h) sports or fitness facilities;
- 2287 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
- 2288 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
- 2289 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
- 2290 of these;
- 2291 (j) (i) any child care facility or program subject to licensure or certification under this
- 2292 title, including those operated in private homes, when any child cared for under that license is
- 2293 present; and
- 2294 (ii) any child care, other than child care as defined in Section [26-39-102](#), that is not
- 2295 subject to licensure or certification under this title, when any child cared for by the provider,
- 2296 other than the child of the provider, is present;
- 2297 (k) public or private elementary or secondary school buildings and educational

2298 facilities or the property on which those facilities are located;

2299 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
2300 religious organization when used solely by the organization members or their guests or
2301 families;

2302 (m) any facility rented or leased for private functions from which the general public is
2303 excluded and arrangements for the function are under the control of the function sponsor;

2304 (n) any workplace that is not a place of public access or a publicly owned building or
2305 office but has one or more employees who are not owner-operators of the business;

2306 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
2307 stating "no smoking", "thank you for not smoking", or similar statement; and

2308 (p) a holder of a bar establishment license, as defined in Section 32B-1-102.

2309 (3) "Publicly owned building or office" means any enclosed indoor place or portion of
2310 a place owned, leased, or rented by any state, county, or municipal government, or by any
2311 agency supported by appropriation of, or by contracts or grants from, funds derived from the
2312 collection of federal, state, county, or municipal taxes.

2313 (4) "Smoking" means:

2314 (a) the possession of any lighted or heated tobacco product in any form;

2315 (b) inhaling, exhaling, burning, or heating a substance containing tobacco or nicotine
2316 intended for inhalation through a cigar, cigarette, pipe, or hookah;

2317 (c) [~~except as provided in Section 26-38-2.6,~~] using an e-cigarette; or

2318 (d) using an oral smoking device intended to circumvent the prohibition of smoking in
2319 this chapter.

2320 Section 31. Section 31A-4-106 is amended to read:

2321 **31A-4-106. Provision of health care.**

2322 (1) As used in this section, "health care provider" has the same definition as in Section
2323 78B-3-403.

2324 (2) Except under Subsection (3) or (4), unless authorized to do so or employed by
2325 someone authorized to do so under Chapter 5, Domestic Stock and Mutual Insurance

2326 Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health
2327 Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or
2328 Chapter 14, Foreign Insurers, a person may not:

- 2329 (a) directly or indirectly provide health care;
- 2330 (b) arrange for health care;
- 2331 (c) manage or administer the provision or arrangement of health care;
- 2332 (d) collect advance payments for health care; or
- 2333 (e) compensate a provider of health care.

2334 (3) Subsection (2) does not apply to:

2335 (a) a natural person or professional corporation that alone or with others professionally
2336 associated with the natural person or professional corporation, and except as provided in
2337 Subsection (3)(f), without receiving consideration for services in advance of the need for a
2338 particular service, provides the service personally with the aid of nonprofessional assistants;

2339 (b) a health care facility as defined in Section 26-21-2 that:

2340 (i) is licensed or exempt from licensing under Title 26, Chapter 21, Health Care
2341 Facility Licensing and Inspection Act; and

2342 (ii) does not engage in health care insurance as defined under Section 31A-1-301;

2343 (c) a person who files with the commissioner a certificate from the United States
2344 Department of Labor, or other evidence satisfactory to the commissioner, showing that the laws
2345 of Utah are preempted under Section 514 of the Employee Retirement Income Security Act of
2346 1974 or other federal law;

2347 (d) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers,
2348 Consultants, and Reinsurance Intermediaries, who~~[(t)]~~ arranges for the insurance of all
2349 services under:

2350 ~~[(A)]~~ (i) Subsection (2) by an insurer authorized to do business in Utah; or

2351 ~~[(B)]~~ (ii) Section 31A-15-103; or

2352 ~~[(ii) works for an uninsured employer that complies with Chapter 13, Employee
2353 Welfare Funds and Plans;]~~

2354 ~~[(e) an employer that self-funds its obligations to provide health care services or~~
 2355 ~~indemnity for its employees if the employer complies with Chapter 13, Employee Welfare~~
 2356 ~~Funds and Plans, or]~~

2357 [(f)] (e) notwithstanding the provisions of Subsection (3)(a), a natural person or
 2358 professional corporation that alone or with others professionally associated with the natural
 2359 person or professional corporation enters into a medical retainer agreement in accordance with
 2360 Section 31A-4-106.5.

2361 (4) A person may not provide administrative or management services for another
 2362 person subject to Subsection (2) and not exempt under Subsection (3) unless the person:

2363 (a) is an authorized insurer under Chapter 5, Domestic Stock and Mutual Insurance
 2364 Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health
 2365 Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternal, or
 2366 Chapter 14, Foreign Insurers; or

2367 (b) complies with Chapter 25, Third Party Administrators.

2368 (5) An insurer or person who provides, administers, or manages health care insurance
 2369 under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit
 2370 Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and
 2371 Limited Health Plans, Chapter 9, Insurance Fraternal, or Chapter 14, Foreign Insurers, may not
 2372 enter into a contract that limits a health care provider's ability to advise the health care
 2373 provider's patients or clients fully about treatment options or other issues that affect the health
 2374 care of the health care provider's patients or clients.

2375 Section 32. Section 31A-27a-403 is amended to read:

2376 **31A-27a-403. Continuance of coverage -- Health maintenance organizations.**

2377 (1) As used in this section:

2378 (a) "Basic health care services" is as defined in Section 31A-8-101.

2379 (b) "Enrollee" is as defined in Section 31A-8-101.

2380 (c) "Health care" is as defined in Section 31A-1-301.

2381 (d) "Health maintenance organization" is as defined in Section 31A-8-101.

- 2382 (e) "Limited health plan" is as defined in Section [31A-8-101](#).
- 2383 (f) (i) "Managed care organization" means an entity licensed by, or holding a certificate
2384 of authority from, the department to furnish health care services or health insurance.
- 2385 (ii) "Managed care organization" includes:
- 2386 (A) a limited health plan;
- 2387 (B) a health maintenance organization;
- 2388 (C) a preferred provider organization;
- 2389 (D) a fraternal benefit society; or
- 2390 (E) an entity similar to an entity described in Subsections (1)(f)(ii)(A) through (D).
- 2391 (iii) "Managed care organization" does not include:
- 2392 (A) an insurer or other person that is eligible for membership in a guaranty association
2393 under Chapter 28, Guaranty Associations;
- 2394 (B) a mandatory state pooling plan;
- 2395 (C) a mutual assessment company or an entity that operates on an assessment basis; or
- 2396 (D) an entity similar to an entity described in Subsections (1)(f)(iii)(A) through (C).
- 2397 (g) "Participating provider" means a provider who, under a contract with a managed
2398 care organization authorized under Section [31A-8-407](#), agrees to provide health care services to
2399 enrollees with an expectation of receiving payment:
- 2400 (i) directly or indirectly, from the managed care organization; and
- 2401 (ii) other than a copayment.
- 2402 (h) "Participating provider contract" means the agreement between a participating
2403 provider and a managed care organization authorized under Section [31A-8-407](#).
- 2404 (i) "Preferred provider" means a provider who agrees to provide health care services
2405 under an agreement authorized under Subsection [~~[31A-22-617\(1\)](#)~~] [31A-45-303\(2\)](#).
- 2406 (j) "Preferred provider contract" means the written agreement between a preferred
2407 provider and a managed care organization authorized under Subsection [~~[31A-22-617\(1\)](#)~~]
2408 [31A-45-303\(2\)](#).
- 2409 (k) (i) Except as provided in Subsection (1)(k)(ii), "preferred provider organization"

2410 means a person that:

2411 (A) furnishes at a minimum, through a preferred provider, basic health care services to
2412 an enrollee in return for prepaid periodic payments in an amount agreed to before the time
2413 during which the health care may be furnished;

2414 (B) is obligated to the enrollee to arrange for the services described in Subsection
2415 (1)(k)(i)(A); and

2416 (C) permits the enrollee to obtain health care services from a provider who is not a
2417 preferred provider.

2418 (ii) "Preferred provider organization" does not include:

2419 (A) an insurer licensed under Chapter 7, Nonprofit Health Service Insurance
2420 Corporations; or

2421 (B) an individual who contracts to render professional or personal services that the
2422 individual performs.

2423 (l) "Provider" is as defined in Section [31A-8-101](#).

2424 (m) "Uncovered expenditure" means a cost of health care services that is covered by an
2425 organization for which an enrollee is liable in the event of the managed care organization's
2426 insolvency.

2427 (2) The rehabilitator or liquidator may take one or more of the actions described in
2428 Subsections (2)(a) through (g) to assure continuation of health care coverage for enrollees of an
2429 insolvent managed care organization.

2430 (a) (i) Subject to Subsection (2)(a)(ii), a rehabilitator or liquidator may require a
2431 participating provider or preferred provider to continue to provide the health care services the
2432 provider is required to provide under the provider's participating provider contract or preferred
2433 provider contract until the earlier of:

2434 (A) 90 days after the day on which the following is filed:

2435 (I) a petition for rehabilitation; or

2436 (II) a petition for liquidation; or

2437 (B) the day on which the term of the contract ends.

2438 (ii) A requirement by the rehabilitator or liquidator under Subsection (2)(a)(i) that a
2439 participating provider or preferred provider continue to provide health care services under the
2440 provider's participating provider contract or preferred provider contract expires when health
2441 care coverage for all enrollees of the insolvent managed care organization is obtained from
2442 another managed care organization or insurer.

2443 (b) (i) Subject to Subsection (2)(b)(ii), a rehabilitator or liquidator may reduce the fees
2444 a participating provider or preferred provider is otherwise entitled to receive from the managed
2445 care organization under the provider's participating provider contract or preferred provider
2446 contract during the time period in Subsection (2)(a)(i).

2447 (ii) Notwithstanding Subsection (2)(b)(i), a rehabilitator or liquidator may not reduce a
2448 fee to less than 75% of the regular fee set forth in the provider's participating provider contract
2449 or preferred provider contract.

2450 (iii) An enrollee shall continue to pay the same copayments, deductibles, and other
2451 payments for services received from a participating provider or preferred provider that the
2452 enrollee is required to pay before the day on which the following is filed:

2453 (A) the petition for rehabilitation; or

2454 (B) the petition for liquidation.

2455 (c) A participating provider or preferred provider shall:

2456 (i) accept the amounts specified in Subsection (2)(b) as payment in full; and

2457 (ii) relinquish the right to collect additional amounts from the insolvent managed care
2458 organization's enrollee.

2459 (d) Subsections (2)(b) and (c) apply to the fees paid to a provider who agrees to
2460 provide health care services to an enrollee but is not a preferred or participating provider.

2461 (e) If the managed care organization is a health maintenance organization, Subsections
2462 (2)(e)(i) through (vi) apply.

2463 (i) A solvent health maintenance organization licensed under Chapter 8, Health
2464 Maintenance Organizations and Limited Health Plans, shall extend to the enrollees of an
2465 insolvent health maintenance organization all rights, privileges, and obligations of being an

2466 enrollee in the accepting health maintenance organization:

2467 (A) subject to Subsections (2)(e)(ii), (iii), and (v);

2468 (B) upon notification from and subject to the direction of the rehabilitator or liquidator
2469 of an insolvent health maintenance organization licensed under Chapter 8, Health Maintenance
2470 Organizations and Limited Health Plans; and

2471 (C) if the solvent health maintenance organization operates within a portion of the
2472 insolvent health maintenance organization's service area.

2473 (ii) Notwithstanding Subsection (2)(e)(i), the accepting health maintenance
2474 organization shall give credit to an enrollee for any waiting period already satisfied under the
2475 enrollee's contract with the insolvent health maintenance organization.

2476 (iii) A health maintenance organization accepting an enrollee of an insolvent health
2477 maintenance organization under Subsection (2)(e)(i) shall charge the enrollee the premiums
2478 applicable to the existing business of the accepting health maintenance organization.

2479 (iv) A health maintenance organization's obligation to accept an enrollee under
2480 Subsection (2)(e)(i) is limited in number to the accepting health maintenance organization's pro
2481 rata share of all health maintenance organization enrollees in this state, as determined after
2482 excluding the enrollees of the insolvent insurer.

2483 (v) (A) The rehabilitator or liquidator of an insolvent health maintenance organization
2484 shall take those measures that are possible to ensure that no health maintenance organization is
2485 required to accept more than its pro rata share of the adverse risk represented by the enrollees
2486 of the insolvent health maintenance organization.

2487 (B) If the methodology used by the rehabilitator or liquidator to assign an enrollee is
2488 one that can be expected to produce a reasonably equitable distribution of adverse risk, that
2489 methodology and its results are acceptable under this Subsection (2)(e)(v).

2490 (vi) (A) Notwithstanding Section [31A-27a-402](#), the rehabilitator or liquidator may
2491 require all solvent health maintenance organizations to pay for the covered claims incurred by
2492 the enrollees of the insolvent health maintenance organization.

2493 (B) As determined by the rehabilitator or liquidator, payments required under this

2494 Subsection (2)(e)(vi) may:

2495 (I) begin as of the day on which the following is filed:

2496 (Aa) the petition for rehabilitation; or

2497 (Bb) the petition for liquidation; and

2498 (II) continue for a maximum period through the time all enrollees are assigned pursuant
2499 to this section.

2500 (C) If the rehabilitator or liquidator makes an assessment under this Subsection
2501 (2)(e)(vi), the rehabilitator or liquidator shall assess each solvent health maintenance
2502 organization its pro rata share of the total assessment based upon its premiums from the
2503 previous calendar year.

2504 (D) (I) A solvent health maintenance organization required to pay for covered claims
2505 under this Subsection (2)(e)(vi) may file a claim against the estate of the insolvent health
2506 maintenance organization.

2507 (II) Any claim described in Subsection (2)(e)(vi)(D)(I), if allowed by the rehabilitator
2508 or liquidator, shall share in any distributions from the estate of the insolvent health
2509 maintenance organization as a Class 3 claim.

2510 (f) (i) A rehabilitator or liquidator may transfer, through sale or otherwise, the group
2511 and individual health care obligations of the insolvent managed care organization to one or
2512 more other managed care organizations or other insurers, if those other managed care
2513 organizations and other insurers:

2514 (A) are licensed to provide the same health care services in this state that are held by
2515 the insolvent managed care organization; or

2516 (B) have a certificate of authority to provide the same health care services in this state
2517 that is held by the insolvent managed care organization.

2518 (ii) The rehabilitator or liquidator may combine group and individual health care
2519 obligations of the insolvent managed care organization in any manner the rehabilitator or
2520 liquidator considers best to provide for continuous health care coverage for the maximum
2521 number of enrollees of the insolvent managed care organization.

2522 (iii) If the terms of a proposed transfer of the same combination of group and
2523 individual policy obligations to more than one other managed care organization or insurer are
2524 otherwise equal, the rehabilitator or liquidator shall give preference to the transfer of the group
2525 and individual policy obligations of an insolvent managed care organization as follows:

2526 (A) from one category of managed care organization to another managed care
2527 organization of the same category, as follows:

2528 (I) from a limited health plan to a limited health plan;

2529 (II) from a health maintenance organization to a health maintenance organization;

2530 (III) from a preferred provider organization to a preferred provider organization;

2531 (IV) from a fraternal benefit society to a fraternal benefit society; and

2532 (V) from an entity similar to an entity described in this Subsection (2)(f)(iii)(A) to a
2533 category that is similar;

2534 (B) from one category of managed care organization to another managed care
2535 organization, regardless of the category of the transferee managed care organization; and

2536 (C) from a managed care organization to a nonmanaged care provider of health care
2537 coverage, including insurers.

2538 (g) If an insolvent managed care organization has required surplus, a rehabilitator or
2539 liquidator may use the insolvent managed care organization's required surplus to continue to
2540 provide coverage for the insolvent managed care organization's enrollees, including paying
2541 uncovered expenditures.

2542 Section 33. Section **31A-30-206** is amended to read:

2543 **31A-30-206. Minimum participation and contribution levels -- Premium**
2544 **payments.**

2545 An insurer who offers a health benefit plan for which an employer has established a
2546 defined contribution arrangement under the provisions of this part:

2547 (1) may not:

2548 (a) establish an employer minimum contribution level for the health benefit plan
2549 premium under Section **31A-30-112**, or any other law; or

- 2550 (b) discontinue or non-renew a policy under Subsection [~~31A-30-107(4)~~
2551 ~~31A-22-618.6(2)(a)~~ for failure to maintain a minimum employer contribution level;
2552 (2) shall accept premium payments for an enrollee from multiple sources through the
2553 Internet portal, including:
2554 (a) government assistance programs;
2555 (b) contributions from a Section 125 Cafeteria plan, a health reimbursement
2556 arrangement, or other qualified mechanism for pre-tax payments established by any employer
2557 of the enrollee;
2558 (c) contributions from a Section 125 Cafeteria plan, a health reimbursement
2559 arrangement, or other qualified mechanism for pre-tax payments established by an employer of
2560 a spouse or dependent of the enrollee; and
2561 (d) contributions from private sources of premium assistance; and
2562 (3) may require, as a condition of coverage, a minimum participation level for eligible
2563 employees of an employer, which for purposes of the defined contribution arrangement market
2564 may not exceed 75% participation.

2565 Section 34. Section ~~31A-32a-107~~ is amended to read:

2566 **31A-32a-107. Penalties for noncompliance with tax provisions.**

2567 (1) An account administrator who fails to comply with a provision described in
2568 Subsection (2) is subject to:

- 2569 (a) the civil penalties provided in Section ~~59-1-401~~; and
2570 (b) interest at the rate and in the manner provided in Section ~~59-1-402~~.

2571 (2) The following provisions apply to Subsection (1):

- 2572 (a) a provision of this chapter relating to~~[(i)]~~ an addition to income made in
2573 accordance with Section ~~59-10-114~~; or
2574 ~~[(ii) a tax credit allowed by Section 59-10-1021; or]~~
2575 (b) a provision of Title 59, Chapter 10, Individual Income Tax Act, relating to~~[(i)]~~ an
2576 addition to income made in accordance with Section ~~59-10-114~~~~;~~~~or~~.
2577 ~~[(ii) a tax credit allowed by Section 59-10-1021.]~~

2578 Section 35. Section **32B-1-605** is amended to read:

2579 **32B-1-605. General procedure for approval.**

2580 (1) To obtain approval of the label and packaging of a malted beverage, the
2581 manufacturer of the malted beverage shall submit an application to the department for
2582 approval.

2583 (2) The application described in Subsection (1) shall be on a form approved by the
2584 department and include the following for each brand and label for which the manufacturer
2585 seeks approval:

2586 (a) (i) a copy of a federal certificate of label approval from the United States
2587 Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau; or

2588 (ii) if the United States Department of Treasury, Alcohol and Tobacco Tax and Trade
2589 Bureau does not require label approval, a copy of formula approval from the United States
2590 Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;

2591 (b) a complete set of original labels for each size of container of the malted beverage;

2592 (c) a description of the size of the container on which a label will be placed;

2593 (d) a description of each type of container of the malted beverage; and

2594 (e) a description of any packaging for the malted beverage.

2595 (3) The department may assess a reasonable fee for reviewing a label and packaging for
2596 approval.

2597 (4) (a) The department shall notify a manufacturer within 30 days after the day on
2598 which the manufacturer submits an application whether the label and packaging is approved or
2599 denied.

2600 (b) If the department determines that an unusual circumstance requires additional time,
2601 the department may extend the time period described in Subsection (4)(a).

2602 (5) A manufacturer shall obtain the approval of the department of a revision of a
2603 previously approved label and packaging before a malted beverage using the revised label and
2604 packaging may be distributed or sold in this state.

2605 (6) (a) The department may revoke a label and packaging previously approved upon a

2606 finding that the label and packaging is not in compliance with this title or rules of the
2607 commission.

2608 (b) The department shall notify the person who applies for the approval of a label and
2609 packaging at least five business days before the day on which a label and packaging approval is
2610 considered revoked.

2611 (c) After receiving notice under Subsection (6)(b), a manufacturer may present written
2612 argument or evidence to the department on why the revocation should not occur.

2613 (7) A manufacturer that applies for approval of a label and packaging may appeal a
2614 denial or revocation of a label and packaging approval to the commission.

2615 Section 36. Section **32B-3-102** is amended to read:

2616 **32B-3-102. Definitions.**

2617 As used in this chapter:

2618 (1) "Aggravating circumstances" means:

2619 (a) prior warnings about compliance problems;

2620 (b) a prior violation history;

2621 (c) a lack of written policies governing employee conduct;

2622 (d) multiple violations during the course of an investigation;

2623 (e) efforts to conceal a violation;

2624 (f) an intentional violation;

2625 (g) the violation involved more than one patron or employee; or

2626 (h) a violation that results in injury or death.

2627 (2) "Final adjudication" means an adjudication for which a final judgment or order is
2628 issued that:

2629 (a) is not appealed, and the time to appeal the judgment has expired; or

2630 (b) is appealed, and is affirmed, in whole or in part, on appeal.

2631 (3) "Mitigating circumstances" means:

2632 (a) no prior violation history for the licensee or permittee;

2633 (b) no prior violation history for the individual who committed the violation;

2634 (c) motive for the individual who engaged in or allowed the violation to retaliate
2635 against the licensee or permittee; or

2636 (d) extraordinary cooperation with the investigation of the violation that demonstrates
2637 that the licensee or permittee and the individual who committed the violation accept
2638 responsibility for the violation.

2639 Section 37. Section **32B-6-205.2** is amended to read:

2640 **32B-6-205.2. Specific operational requirements for a full-service restaurant**
2641 **license -- On and after July 1, 2018, or July 1, 2022.**

2642 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2643 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
2644 shall comply with this section.

2645 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2646 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2647 (i) a full-service restaurant licensee;

2648 (ii) individual staff of a full-service restaurant licensee; or

2649 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
2650 licensee.

2651 (2) In addition to complying with Subsection **32B-5-301(3)**, a full-service restaurant
2652 licensee shall display in a conspicuous place at the entrance to the licensed premises a sign
2653 approved by the commission that:

2654 (a) measures at least 8-1/2 inches long and 11 inches wide; and

2655 (b) clearly states that the full-service restaurant licensee is a restaurant and not a bar.

2656 (3) In addition to complying with Section **32B-5-303**, a full-service restaurant licensee
2657 shall store an alcoholic product in a storage area described in Subsection (13)(a).

2658 (4) (a) An individual who serves an alcoholic product in a full-service restaurant
2659 licensee's premises shall make a beverage tab for each table or group that orders or consumes
2660 an alcoholic product on the premises.

2661 (b) A beverage tab described in this Subsection (4) shall state the type and amount of

2662 each alcoholic product ordered or consumed.

2663 (5) A full-service restaurant licensee may not make an individual's willingness to serve
2664 an alcoholic product a condition of employment with a full-service restaurant licensee.

2665 (6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the
2666 licensed premises during the following time periods only:

2667 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

2668 (ii) on a weekend or a state or federal legal holiday or for a private event, during the
2669 period that begins at 10:30 a.m. and ends at 11:59 p.m.

2670 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the
2671 licensed premises during the following time periods only:

2672 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2673 (ii) on a weekend or a state or federal legal holiday or for a private event, during the
2674 period that begins at 10:30 a.m. and ends at 12:59 a.m.

2675 (7) A full-service restaurant licensee shall maintain at least 70% of the full-service
2676 restaurant licensee's total restaurant business from the sale of food, which does not include:

2677 (a) mix for an alcoholic product; or

2678 (b) a service charge.

2679 (8) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
2680 alcoholic product except after:

2681 (i) the patron to whom the full-service restaurant licensee sells, offers for sale, or
2682 furnishes the alcoholic product is seated at:

2683 (A) a table that is located in a dining area or a dispensing area;

2684 (B) a counter that is located in a dining area or a dispensing area; or

2685 (C) a dispensing structure that is located in a dispensing area; and

2686 (ii) the full-service restaurant licensee confirms that the patron intends to:

2687 (A) order food prepared, sold, and furnished at the licensed premises; and

2688 (B) except as provided in Subsection (8)(b), consume the food at the same location
2689 where the patron is seated and sold, offered for sale, or furnished the alcoholic product.

2690 (b) (i) While a patron waits for a seat at a table or counter in the dining area of a
2691 full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or
2692 furnish to the patron one drink that contains a single portion of an alcoholic product as
2693 described in Section 32B-5-304 if:

2694 (A) the patron is in a dispensing area and seated at a table, counter, or dispensing
2695 structure; and

2696 (B) the full-service restaurant licensee first confirms that after the patron is seated in
2697 the dining area, the patron intends to order food prepared, sold, and furnished at the licensed
2698 premises.

2699 (ii) If the patron does not finish the patron's alcoholic product before moving to a seat
2700 in the dining area, an employee of the full-service restaurant licensee who is qualified to sell
2701 and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion
2702 of the patron's alcoholic product to the patron's seat in the dining area.

2703 (iii) For purposes of Subsection (8)(b)(i) a single portion of wine is 5 ounces or less.

2704 (c) A full-service restaurant licensee shall maintain on the licensed premises adequate
2705 culinary facilities for food preparation and dining accommodations.

2706 (9) A patron may consume an alcoholic product only if the patron is seated at:

2707 (a) a table that is located in a dining area or dispensing area;

2708 (b) a counter that is located in a dining area or dispensing area; or

2709 (c) a dispensing structure located in a dispensing area.

2710 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2711 more than two alcoholic products of any kind at a time before the patron.

2712 (b) A patron may not have more than one spirituous liquor drink at a time before the
2713 patron.

2714 (c) An individual portion of wine is considered to be one alcoholic product under
2715 Subsection (10)(a).

2716 (11) In accordance with the provisions of this section, an individual who is at least 21
2717 years of age may consume food and beverages in a dispensing area.

2718 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
2719 consume food or beverages in a dispensing area.

2720 (b) (i) A minor may be in a dispensing area if the minor is employed by the full-service
2721 restaurant licensee:

2722 (A) in accordance with Subsection 32B-5-308(2); or

2723 (B) to perform maintenance and cleaning services when the full-service restaurant
2724 licensee is not open for business.

2725 (ii) If there is no alternative route available, a minor may momentarily pass through a
2726 dispensing area without remaining or sitting in the dispensing area en route to an area of the
2727 full-service restaurant licensee's premises in which the minor is permitted to be.

2728 (13) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee
2729 may dispense an alcoholic product only if:

2730 (a) the alcoholic product is dispensed from:

2731 (i) a dispensing structure that is located in a dispensing area;

2732 (ii) an area that is:

2733 (A) separated from an area for the consumption of food by a patron by a solid,
2734 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2735 an alcoholic product are not readily visible to a patron and not accessible by a patron; and

2736 (B) apart from an area used for dining, for staging, or as a ~~[lobby or]~~ waiting area; or

2737 (iii) the premises of a bar licensee that is:

2738 (A) owned by the same person or persons as the full-service restaurant licensee; and

2739 (B) located immediately adjacent to the premises of the full-service restaurant licensee;

2740 (b) the full-service restaurant licensee uses an alcoholic product that is stored in an area
2741 described in Subsection (13)(a) or in accordance with Section 32B-5-303; and

2742 (c) any instrument or equipment used to dispense alcoholic product is located in an
2743 area described in Subsection (13)(a).

2744 (14) (a) A full-service restaurant licensee may have more than one dispensing area in
2745 the licensed premises.

2746 (b) Each dispensing area in a licensed premises may satisfy the requirements for a
2747 dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other
2748 dispensing area in the licensed premises satisfies the requirements for a dispensing area.

2749 (15) A full-service restaurant licensee may not:

2750 (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

2751 (b) display an alcoholic product or a product intended to appear like an alcoholic
2752 product by moving a cart or similar device around the licensed premises.

2753 (16) A full-service restaurant licensee may state in a food or alcoholic product menu a
2754 charge or fee made in connection with the sale, service, or consumption of liquor, including:

2755 (a) a set-up charge;

2756 (b) a service charge; or

2757 (c) a chilling fee.

2758 (17) (a) In addition to the requirements described in Section 32B-5-302, a full-service
2759 restaurant licensee shall maintain each of the following records for at least three years:

2760 (i) a record required by Section 32B-5-302; and

2761 (ii) a record that the commission requires a full-service restaurant licensee to use or
2762 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2763 Rulemaking Act.

2764 (b) The department shall audit the records of a full-service restaurant licensee at least
2765 once each calendar year.

2766 (18) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:

2767 (i) may comply with the provisions of this section beginning on or after July 1, 2017;

2768 and

2769 (ii) shall comply with the provisions of this section:

2770 (A) for a full-service restaurant licensee that does not have a grandfathered bar
2771 structure, on and after July 1, 2018; or

2772 (B) for a full-service restaurant licensee that has a grandfathered bar structure, on and
2773 after July 1, 2022.

2774 (b) A full-service restaurant licensee that elects to comply with the provisions of this
2775 section before the latest applicable date described in Subsection (18)(a)(ii):

2776 (i) shall comply with each provision of this section; and

2777 (ii) is not required to comply with the provisions of Section 32B-6-205.

2778 Section 38. Section 32B-6-305.2 is amended to read:

2779 **32B-6-305.2. Specific operational requirements for a limited-service restaurant**
2780 **license -- On and after July 1, 2018, or July 1, 2022.**

2781 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2782 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
2783 licensee shall comply with this section.

2784 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2785 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2786 (i) a limited-service restaurant licensee;

2787 (ii) individual staff of a limited-service restaurant licensee; or

2788 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
2789 licensee.

2790 (2) In addition to complying with Subsection 32B-5-301(3), a limited-service
2791 restaurant licensee shall display in a conspicuous place at the entrance to the licensed premises
2792 a sign approved by the commission that:

2793 (a) measures at least 8-1/2 inches long and 11 inches wide; and

2794 (b) clearly states that the limited-service restaurant licensee is a restaurant and not a
2795 bar.

2796 (3) In addition to complying with Section 32B-5-303, a limited-service restaurant
2797 licensee shall store an alcoholic product in a storage area described in Subsection (13)(a).

2798 (4) (a) An individual who serves an alcoholic product in a limited-service restaurant
2799 licensee's premises shall make a beverage tab for each table or group that orders or consumes
2800 an alcoholic product on the premises.

2801 (b) A beverage tab described in this Subsection (4) shall state the type and amount of

2802 each alcoholic product ordered or consumed.

2803 (5) A limited-service restaurant licensee may not make an individual's willingness to
2804 serve an alcoholic product a condition of employment with a limited-service restaurant
2805 licensee.

2806 (6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or
2807 heavy beer at the licensed premises during the following time periods only:

2808 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

2809 (ii) on a weekend or a state or federal legal holiday or for a private event, during the
2810 period that begins at 10:30 a.m. and ends at 11:59 p.m.

2811 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the
2812 licensed premises during the following time periods only:

2813 (i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2814 (ii) on a weekend or a state or federal legal holiday or for a private event, during the
2815 period that begins at 10:30 a.m. and ends at 12:59 a.m.

2816 (7) A limited-service restaurant licensee shall maintain at least 70% of the
2817 limited-service restaurant licensee's total restaurant business from the sale of food, which does
2818 not include a service charge.

2819 (8) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
2820 alcoholic product except after:

2821 (i) the patron to whom the limited-service restaurant licensee sells, offers for sale, or
2822 furnishes the alcoholic product is seated at:

2823 (A) a table that is located in a dining area or a dispensing area;

2824 (B) a counter that is located in a dining area or a dispensing area; or

2825 (C) a dispensing structure that is located in a dispensing area; and

2826 (ii) the limited-service restaurant licensee confirms that the patron intends to:

2827 (A) order food prepared, sold, and furnished at the licensed premises; and

2828 (B) except as provided in Subsection (8)(b), consume the food at the same location
2829 where the patron is seated and sold, offered for sale, or furnished the alcoholic product.

2830 (b) (i) While a patron waits for a seat at a table or counter in the dining area of a
2831 limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for
2832 sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as
2833 described in Section 32B-5-304 if:

2834 (A) the patron is in a dispensing area and seated at a table, counter, or dispensing
2835 structure; and

2836 (B) the limited-service restaurant licensee first confirms that after the patron is seated
2837 in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed
2838 premises.

2839 (ii) If the patron does not finish the patron's alcoholic product before moving to a seat
2840 in the dining area, an employee of the limited-service restaurant licensee who is qualified to
2841 sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished
2842 portion of the patron's alcoholic product to the patron's seat in the dining area.

2843 (iii) For purposes of Subsection (8)(b)(i) a single portion of wine is 5 ounces or less.

2844 (c) A limited-service restaurant licensee shall maintain on the licensed premises
2845 adequate culinary facilities for food preparation and dining accommodations.

2846 (9) A patron may consume an alcoholic product only if the patron is seated at:

2847 (a) a table that is located in a dining area or a dispensing area;

2848 (b) a counter that is located in a dining area or a dispensing area; or

2849 (c) a dispensing structure located in a dispensing area.

2850 (10) (a) Subject to the other provisions of this Subsection (10), a patron may not have
2851 more than two alcoholic products of any kind at a time before the patron.

2852 (b) An individual portion of wine is considered to be one alcoholic product under
2853 Subsection (10)(a).

2854 (11) In accordance with the provisions of this section, an individual who is at least 21
2855 years of age may consume food and beverages in a dispensing area.

2856 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
2857 consume food or beverages in a dispensing area.

- 2858 (b) (i) A minor may be in a dispensing area if the minor is employed by the
2859 limited-service restaurant licensee:
- 2860 (A) in accordance with Subsection 32B-5-308(2); or
2861 (B) to perform maintenance and cleaning services when the limited-service restaurant
2862 licensee is not open for business.
- 2863 (ii) If there is no alternative route available, a minor may momentarily pass through a
2864 dispensing area without remaining or sitting in the dispensing area en route to an area of the
2865 limited-service restaurant licensee's premises in which the minor is permitted to be.
- 2866 (13) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant
2867 licensee may dispense an alcoholic product only if:
- 2868 (a) the alcoholic product is dispensed from:
- 2869 (i) a dispensing structure that is located in a dispensing area;
2870 (ii) an area that is:
- 2871 (A) separated from an area for the consumption of food by a patron by a solid,
2872 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
2873 an alcoholic product are not readily visible to a patron and not accessible by a patron; and
2874 (B) apart from an area used for dining, for staging, or as a ~~lobby or~~ waiting area; or
2875 (iii) the premises of a bar licensee that is:
- 2876 (A) owned by the same person or persons as the limited-service restaurant licensee; and
2877 (B) located immediately adjacent to the premises of the limited-service restaurant
2878 licensee;
- 2879 (b) the limited-service restaurant licensee uses an alcoholic product that is stored in an
2880 area described in Subsection (13)(a) or in accordance with Section 32B-5-303; and
2881 (c) any instrument or equipment used to dispense alcoholic product is located in an
2882 area described in Subsection (13)(a).
- 2883 (14) (a) A limited-service restaurant licensee may have more than one dispensing area
2884 in the licensed premises.
- 2885 (b) Each dispensing area in a licensed premises may satisfy the requirements for a

2886 dispensing area under Subsection [32B-6-202\(2\)\(a\)\(i\)](#), (ii), or (iii), regardless of how any other
2887 dispensing area in the licensed premises satisfies the requirements for a dispensing area.

2888 (15) A limited-service restaurant licensee may not:

2889 (a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

2890 (b) display an alcoholic product or a product intended to appear like an alcoholic
2891 product by moving a cart or similar device around the licensed premises.

2892 (16) A limited-service restaurant licensee may state in a food or alcoholic product
2893 menu a charge or fee made in connection with the sale, service, or consumption of wine or
2894 heavy beer, including:

2895 (a) a set-up charge;

2896 (b) a service charge; or

2897 (c) a chilling fee.

2898 (17) (a) In addition to the requirements described in Section [32B-5-302](#), a
2899 limited-service restaurant licensee shall maintain each of the following records for at least three
2900 years:

2901 (i) a record required by Section [32B-5-302](#); and

2902 (ii) a record that the commission requires a limited-service restaurant licensee to use or
2903 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2904 Rulemaking Act.

2905 (b) The department shall audit the records of a limited-service restaurant licensee at
2906 least once each calendar year.

2907 (18) (a) In accordance with Section [32B-6-305.3](#), a limited-service restaurant licensee:

2908 (i) may comply with the provisions of this section beginning on or after July 1, 2017;

2909 and

2910 (ii) shall comply with the provisions of this section:

2911 (A) for a limited-service restaurant licensee that does not have a grandfathered bar
2912 structure, on and after July 1, 2018; or

2913 (B) for a limited-service restaurant licensee that has a grandfathered bar structure, on

2914 and after July 1, 2022.

2915 (b) A limited-service restaurant licensee that elects to comply with the provisions of
2916 this section before the latest applicable date described in Subsection (18)(a)(ii):

2917 (i) shall comply with each provision of this section; and

2918 (ii) is not required to comply with the provisions of Section 32B-6-305.

2919 Section 39. Section 32B-6-902 is amended to read:

2920 **32B-6-902. Definitions.**

2921 (1) As used in this part:

2922 (a) (i) "Dining area" means an area in the licensed premises of a beer-only restaurant
2923 licensee that is primarily used for the service and consumption of food by one or more patrons.

2924 (ii) "Dining area" does not include a dispensing area.

2925 (b) (i) "Dispensing area" means an area in the licensed premises of a beer-only
2926 restaurant licensee where a dispensing structure is located and that:

2927 (A) is physically separated from the dining area and any waiting area by a structure or
2928 other barrier that prevents a patron seated in the dining area or a waiting area from viewing the
2929 dispensing of beer;

2930 (B) except as provided in Subsection (1)(b)(ii), measures at least 10 feet from any area
2931 where beer is dispensed to the dining area and any waiting area, measured from the point of the
2932 area where beer is dispensed that is closest to the dining area or waiting area; or

2933 (C) is physically separated from the dining area and any waiting area by a permanent
2934 physical structure that complies with the provisions of Title 15A, State Construction and Fire
2935 Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act,
2936 measures at least 42 inches high, and at least 60 inches from the inside edge of the barrier to
2937 the nearest edge of the dispensing structure.

2938 (ii) "Dispensing area" does not include any area described in Subsection (1)(b)(i)(B)
2939 that is less than 10 feet from an area where [~~alcoholic product~~] beer is dispensed, but from
2940 which a patron seated at a table or counter cannot view the dispensing of [~~alcoholic product~~]
2941 beer.

2942 (c) "Grandfathered bar structure" means a bar structure in a licensed premises of a
2943 beer-only restaurant licensee that:

2944 (i) was licensed as an on-premise beer retailer as of August 1, 2011, and as of August
2945 1, 2011:

2946 (A) is operational;

2947 (B) has facilities for the dispensing or storage of an alcoholic product that do not meet
2948 the requirements of Subsection 32B-6-905(12)(a)(ii); and

2949 (C) in accordance with Subsection 32B-6-703(2)(e), notifies the department that
2950 effective March 1, 2012, the on-premise beer retailer licensee will seek to be licensed as a
2951 beer-only restaurant; or

2952 (ii) is a bar structure grandfathered under Section 32B-6-409.

2953 (d) "Grandfathered bar structure" does not include a grandfathered bar structure
2954 described in Subsection (1)(a) on or after the day on which a restaurant remodels the
2955 grandfathered bar structure, as defined by rule made by the commission.

2956 (e) "Waiting area" includes a lobby.

2957 (2) Subject to Subsection (1)(d), a grandfathered bar structure remains a grandfathered
2958 bar structure notwithstanding whether a restaurant undergoes a change of ownership.

2959 Section 40. Section 32B-6-905.1 is amended to read:

2960 **32B-6-905.1. Specific operational requirements for a beer-only restaurant license**
2961 **-- On and after July 1, 2018, or July 1, 2022.**

2962 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
2963 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
2964 shall comply with this section.

2965 (b) Failure to comply with Subsection (1)(a) may result in disciplinary action in
2966 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

2967 (i) a beer-only restaurant licensee;

2968 (ii) individual staff of a beer-only restaurant licensee; or

2969 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

2970 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
2971 sale, furnish, or allow consumption of liquor.

2972 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

2973 (i) as a flavoring on a dessert; ~~and~~ or

2974 (ii) in the preparation of a flaming food dish, drink, or dessert.

2975 (3) In addition to complying with Section [32B-5-303](#), a beer-only restaurant licensee
2976 shall store beer in a storage area described in Subsection (13)(a).

2977 (4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall
2978 make a beverage tab for each table or group that orders or consumes ~~[an alcoholic product]~~
2979 beer on the premises.

2980 (b) A beverage tab described in this Subsection (4) shall state the type and amount of
2981 each ~~[alcoholic product]~~ beer ordered or consumed.

2982 (5) A beer-only restaurant licensee may not make an individual's willingness to serve
2983 beer a condition of employment as a server with a beer-only restaurant licensee.

2984 (6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the
2985 licensed premises during the following time periods only:

2986 (a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

2987 (b) on a weekend or a state or federal legal holiday or for a private event, during the
2988 period that begins at 10:30 a.m. and ends at 12:59 a.m.

2989 (7) A beer-only restaurant licensee shall maintain at least 70% of the beer-only
2990 restaurant licensee's total restaurant business from the sale of food, which does not include a
2991 service charge.

2992 (8) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish beer
2993 except after:

2994 (i) the patron to whom the beer-only restaurant licensee sells, offers for sale, or
2995 furnishes the beer is seated at:

2996 (A) a table that is located in a dining area or a dispensing area;

2997 (B) a counter that is located in a dining area or a dispensing area; or

2998 (C) a dispensing structure that is located in a dispensing area; and
2999 (ii) the beer-only restaurant licensee confirms that the patron intends to:
3000 (A) order food prepared, sold, and furnished at the licensed premises; and
3001 (B) except as provided in Subsection (8)(b), consume the food at the same location
3002 where the patron is seated and sold, offered for sale, or furnished the beer.
3003 (b) (i) While a patron waits for a seat at a table or counter in the dining area of a
3004 beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or
3005 furnish to the patron one portion of beer as described in Section 32B-5-304 if:
3006 (A) the patron is in a dispensing area and seated at a table, counter, or dispensing
3007 structure; and
3008 (B) the beer-only restaurant licensee first confirms that after the patron is seated in the
3009 dining area, the patron intends to order food prepared, sold, and furnished at the licensed
3010 premises.
3011 (ii) If the patron does not finish the patron's beer before moving to a seat in the dining
3012 area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an
3013 alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the
3014 patron's beer to the patron's seat in the dining area.
3015 (c) A beer-only restaurant licensee shall maintain on the licensed premises adequate
3016 culinary facilities for food preparation and dining accommodations.
3017 (9) A patron may consume a beer only at:
3018 (a) a table that is located in a dining area or a dispensing area;
3019 (b) a counter that is located in a dining area or a dispensing area; or
3020 (c) a dispensing structure located in a dispensing area.
3021 (10) A patron may not have more than two beers at a time before the patron.
3022 (11) In accordance with the provisions of this section, an individual who is at least 21
3023 years of age may consume food and beverages in a dispensing area.
3024 (12) (a) Except as provided in Subsection (12)(b), a minor may not sit, remain, or
3025 consume food or beverages in a dispensing area.

3026 (b) (i) A minor may be in a dispensing area if the minor is employed by the beer-only
 3027 restaurant licensee:

3028 (A) in accordance with Subsection [32B-5-308\(2\)](#); or

3029 (B) to perform maintenance and cleaning services when the beer-only restaurant
 3030 licensee is not open for business.

3031 (ii) If there is no alternative route available, a minor may momentarily pass through a
 3032 dispensing area without remaining or sitting in the dispensing area en route to an area of the
 3033 beer-only restaurant licensee's premises in which the minor is permitted to be.

3034 (13) A beer-only restaurant licensee may dispense a beer only if:

3035 (a) the beer is dispensed from:

3036 (i) a dispensing structure that is located in a dispensing area;

3037 (ii) an area that is:

3038 (A) separated from an area for the consumption of food by a patron by a solid,
 3039 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
 3040 an alcoholic product are not readily visible to a patron[;] and not accessible by a patron; and

3041 (B) apart from an area used for dining, for staging, or as a [~~lobby or~~] waiting area; or

3042 (iii) the premises of a bar licensee that is:

3043 (A) owned by the same person or persons as the beer-only restaurant licensee; and

3044 (B) located immediately adjacent to the premises of the beer-only restaurant licensee;

3045 (b) the beer-only restaurant licensee uses a beer that is stored in an area described in
 3046 Subsection (13)(a) or in accordance with Section [32B-5-303](#); and

3047 (c) any instrument or equipment used to dispense the beer is located in an area
 3048 described in Subsection (13)(a).

3049 (14) (a) A beer-only restaurant licensee may have more than one dispensing area in the
 3050 licensed premises.

3051 (b) Each dispensing area in a licensed premises may satisfy the requirements for a
 3052 dispensing area under Subsection [~~32B-6-202(1)(b)(i)(A), (B), or (C)] [32B-6-202\(2\)\(a\)\(i\), \(ii\),](#)
 3053 or (iii), regardless of how any other dispensing area in the licensed premises satisfies the~~

3054 requirements for a dispensing area.

3055 (15) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or
3056 from a movable cart.

3057 (16) (a) In addition to the requirements described in Section 32B-5-302, a beer-only
3058 restaurant licensee shall maintain each of the following records for at least three years:

3059 (i) a record required by Section 32B-5-302; and

3060 (ii) a record that the commission requires a beer-only restaurant licensee to use or
3061 maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3062 Rulemaking Act.

3063 (b) The department shall audit the records of a beer-only restaurant licensee at least
3064 once each calendar year.

3065 (17) A beer-only restaurant licensee shall display in a conspicuous place at the entrance
3066 to the licensed premises a sign approved by the commission that:

3067 (a) measures at least 8-1/2 inches long and 11 inches wide; and

3068 (b) clearly states that the beer-only restaurant licensee is a restaurant and not a bar.

3069 (18) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

3070 (i) may comply with the provisions of this section beginning on or after July 1, 2017;

3071 and

3072 (ii) shall comply with the provisions of this section:

3073 (A) for a beer-only restaurant licensee that does not have a grandfathered bar structure,
3074 on and after July 1, 2018; or

3075 (B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and
3076 after July 1, 2022.

3077 (b) A beer-only restaurant licensee that elects to comply with the provisions of this
3078 section before the latest applicable date described in Subsection (18)(a)(ii):

3079 (i) shall comply with each provision of this section; and

3080 (ii) is not required to comply with the provisions of Section 32B-6-905.

3081 Section 41. Section 32B-6-905.2 is amended to read:

3082 **32B-6-905.2. Transition process for beer-only restaurant licensees.**

3083 (1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only
3084 restaurant licensee shall comply with the provisions of Section [32B-6-905.1](#).

3085 (2) For a beer-only restaurant license issued before July 1, 2017, before the beer-only
3086 restaurant licensee changes the beer-only restaurant licensee's approved location for storage,
3087 dispensing, or consumption to comply with the provisions of Section ~~[32B-6-901.1]~~
3088 [32B-6-905.1](#), the beer-only restaurant licensee shall submit an application for approval to the
3089 department in accordance with Subsection [32B-5-303\(3\)](#).

3090 (3) (a) Except as provided in Subsection (4), a person who holds a beer-only restaurant
3091 license issued before July 1, 2017, shall comply with the provisions of Section ~~[32B-6-901.1]~~
3092 [32B-6-905.1](#) on or before July 1, 2018.

3093 (b) A beer-only restaurant licensee described in Subsection (3)(a) that cannot comply
3094 with the provisions of Section ~~[32B-6-901.1]~~ [32B-6-905.1](#) without a change to the beer-only
3095 restaurant licensee's approved location for storage, dispensing, or consumption:

3096 (i) may submit an application for approval described in Subsection (2) on or after May
3097 9, 2017; and

3098 (ii) shall submit an application for approval described in Subsection (2) on or before
3099 May 1, 2018.

3100 (c) If a beer-only restaurant licensee described in Subsection (3)(a) submits an
3101 application for approval described in Subsection (2) on May 9, 2017, the department shall take
3102 action on the application on or before July 1, 2017.

3103 (4) (a) A person who holds a beer-only restaurant license issued before July 1, 2017,
3104 and has a grandfathered bar structure shall comply with the provisions of Section
3105 ~~[32B-6-901.1]~~ [32B-6-905.1](#) on or before the earlier of:

3106 (i) July 1, 2022;

3107 (ii) the date on which the beer-only restaurant licensee remodels, as defined by
3108 commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative
3109 Rulemaking Act, the beer-only restaurant licensee's grandfathered bar structure or dining area;

3110 or

3111 (iii) the date on which the beer-only restaurant licensee experiences a change of
3112 ownership described in Subsection [32B-8a-202\(1\)](#).

3113 (b) A beer-only restaurant licensee described in Subsection (4)(a) that cannot comply
3114 with the provisions of Section ~~[32B-6-901.1]~~ [32B-6-905.1](#) without a change to the beer-only
3115 restaurant licensee's approved location for storage, dispensing, or consumption:

3116 (i) may submit an application for approval described in Subsection (2) on or after May
3117 9, 2017; and

3118 (ii) shall submit an application for approval described in Subsection (2) on or before
3119 May 1, 2022.

3120 Section 42. Section **36-23-106** is amended to read:

3121 **36-23-106. Duties -- Reporting.**

3122 (1) The committee shall:

3123 (a) for each application submitted in accordance with Section [36-23-105](#), conduct a
3124 sunrise review in accordance with Section [36-23-107](#) before November 1:

3125 (i) of the year in which the application is submitted, if the application is submitted on
3126 or before July 1; or

3127 (ii) of the year following the year in which the application is submitted, if the
3128 application is submitted after July 1; and

3129 (b) (i) conduct a sunset review for each statute regarding a regulated lawful occupation
3130 that is scheduled for termination under Title 63I, Chapter 1, Part 2, Repeal Dates Requiring
3131 Committee Review by Title;

3132 (ii) conduct a sunset review under this Subsection (1)(b) before November 1 of the year
3133 prior to the last general session of the Legislature that is scheduled to meet before the
3134 scheduled termination date; and

3135 (iii) conduct a review or study regarding any other occupational or professional
3136 licensure or other regulation matter referred to the committee by the Legislature, the Legislative
3137 Management Committee, or other legislative committee.

3138 (2) (a) The committee may conduct a review or study regarding any occupational or
3139 professional regulation matter.

3140 (b) In conducting a review or study under this Subsection (2), the committee shall
3141 consider if the committee's recommendations would negatively affect the interest of members
3142 of the regulated lawful occupation, including the effect on matters of reciprocity with other
3143 states.

3144 (3) The committee shall submit, in accordance with Section 68-3-14, an annual written
3145 report before November 1 to:

3146 (a) the Legislative Management Committee; and

3147 (b) the Business and Labor Interim Committee.

3148 (4) The written report required by Subsection (3) shall include:

3149 (a) all findings and recommendations made by the committee in the calendar year; and

3150 (b) a summary report of each review or study conducted by the committee stating:

3151 (i) whether the review or study included a review of specific proposed or existing
3152 statutory language;

3153 (ii) action taken by the committee as a result of the review or study; and

3154 (iii) a record of the vote for each action taken by the committee.

3155 Section 43. Section 49-11-609 is amended to read:

3156 **49-11-609. Beneficiary designations -- Revocation of beneficiary designation --**
3157 **Procedure -- Beneficiary not designated -- Payment to survivors in order established**
3158 **under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased's**
3159 **expenses.**

3160 (1) As used in this section, "member" includes a member, retiree, participant, covered
3161 individual, a spouse of a retiree participating in the insurance benefits created by Sections
3162 49-12-404, 49-13-404, 49-22-307, and 49-23-306, or an alternate payee under a domestic
3163 relations order dividing a defined contribution account.

3164 (2) (a) Except as provided under Subsection (2)(b) or (c), the most recent beneficiary
3165 designations signed by the member and filed with the office, including electronic records, at the

3166 time of the member's death are binding in the payment of any benefits due under this title.

3167 (b) (i) The divorce or annulment of a member's marriage shall revoke the member's
3168 former spouse as a beneficiary from any of the member's beneficiary designations.

3169 (ii) A revocation of a former spouse as a beneficiary in accordance with Subsection
3170 (2)(b)(i) does not revoke any other beneficiaries named on the member's beneficiary
3171 designations.

3172 (c) A former spouse whose beneficiary designation is revoked solely under Subsection
3173 (2)(b) shall be revived on the member's beneficiary designations by:

3174 (i) the member's remarriage to the former spouse; or

3175 (ii) a nullification of the divorce or annulment.

3176 (d) A revocation under Subsection (2)(b) does not apply to a former spouse named as a
3177 beneficiary in a beneficiary designation signed by the member and filed with the office after the
3178 date of the divorce or annulment.

3179 (e) The office is not liable for having made a payment of any benefits to a beneficiary
3180 designated in a beneficiary designation affected by a divorce, annulment, or remarriage before
3181 the office received written notice of the divorce, annulment, or remarriage.

3182 (3) (a) Except where an optional continuing benefit is chosen, or the law makes a
3183 specific benefit designation to a dependent spouse, a member may revoke a beneficiary
3184 designation at any time and may execute and file a different beneficiary designation with the
3185 office.

3186 (b) A beneficiary designation or change of beneficiary designation shall be completed
3187 on forms provided by the office.

3188 (4) (a) All benefits payable by the office may be paid or applied to the benefit of the
3189 [~~descendent's~~] decedent's heirs in the order of precedence established under Title 75, Chapter 2,
3190 Intestate Succession and Wills, if:

3191 (i) no beneficiary is designated or if all designated beneficiaries have predeceased the
3192 member;

3193 (ii) the location of the beneficiary or secondary beneficiaries cannot be ascertained by

3194 the office within 12 months of the date a reasonable attempt is made by the office to locate the
3195 beneficiaries; or

3196 (iii) the beneficiary has not completed the forms necessary to pay the benefits within
3197 six months of the date that beneficiary forms are sent to the beneficiary's last-known address.

3198 (b) (i) A payment may not be made to a person included in any of the groups referred
3199 to in Subsection (4)(a) if at the date of payment there is a living person in any of the groups
3200 preceding it.

3201 (ii) Payment to a person in any group based upon receipt from the person of an
3202 affidavit in a form satisfactory to the office that:

3203 (A) there are no living individuals in the group preceding it;

3204 (B) the probate of the estate of the deceased has not been commenced; and

3205 (C) more than 30 days have elapsed since the date of death of the decedent.

3206 (5) Benefits paid under this section shall be:

3207 (a) a full satisfaction and discharge of all claims for benefits under this title; and

3208 (b) payable by reason of the death of the decedent.

3209 Section 44. Section **49-20-401** is amended to read:

3210 **49-20-401. Program -- Powers and duties.**

3211 (1) The program shall:

3212 (a) act as a self-insurer of employee benefit plans and administer those plans;

3213 (b) enter into contracts with private insurers or carriers to underwrite employee benefit
3214 plans as considered appropriate by the program;

3215 (c) indemnify employee benefit plans or purchase commercial reinsurance as
3216 considered appropriate by the program;

3217 (d) provide descriptions of all employee benefit plans under this chapter in cooperation
3218 with covered employers;

3219 (e) process claims for all employee benefit plans under this chapter or enter into
3220 contracts, after competitive bids are taken, with other benefit administrators to provide for the
3221 administration of the claims process;

- 3222 (f) obtain an annual actuarial review of all health and dental benefit plans and a
3223 periodic review of all other employee benefit plans;
- 3224 (g) consult with the covered employers to evaluate employee benefit plans and develop
3225 recommendations for benefit changes;
- 3226 (h) annually submit a budget and audited financial statements to the governor and
3227 Legislature which includes total projected benefit costs and administrative costs;
- 3228 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other
3229 liabilities of the employee benefit plans as certified by the program's consulting actuary;
- 3230 (j) submit, in advance, its recommended benefit adjustments for state employees to:
3231 (i) the Legislature; and
3232 (ii) the executive director of the state Department of Human Resource Management;
- 3233 (k) determine benefits and rates, upon approval of the board, for multiemployer risk
3234 pools, retiree coverage, and conversion coverage;
- 3235 (l) determine benefits and rates based on the total estimated costs and the employee
3236 premium share established by the Legislature, upon approval of the board, for state employees;
- 3237 (m) administer benefits and rates, upon ratification of the board, for single employer
3238 risk pools;
- 3239 (n) request proposals for provider networks or health and dental benefit plans
3240 administered by third party carriers at least once every three years for the purposes of:
3241 (i) stimulating competition for the benefit of covered individuals;
3242 (ii) establishing better geographical distribution of medical care services; and
3243 (iii) providing coverage for both active and retired covered individuals;
- 3244 (o) offer proposals which meet the criteria specified in a request for proposals and
3245 accepted by the program to active and retired state covered individuals and which may be
3246 offered to active and retired covered individuals of other covered employers at the option of the
3247 covered employer;
- 3248 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
3249 the Department of Health if the program provides program benefits to children enrolled in the

3250 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's
3251 Health Insurance Act;

3252 (q) establish rules and procedures governing the admission of political subdivisions or
3253 educational institutions and their employees to the program;

3254 (r) contract directly with medical providers to provide services for covered individuals;

3255 (s) take additional actions necessary or appropriate to carry out the purposes of this
3256 chapter;

3257 (t) (i) require state employees and their dependents to participate in the electronic
3258 exchange of clinical health records in accordance with Section [26-1-37](#) unless the enrollee opts
3259 out of participation; and

3260 (ii) prior to enrolling the state employee, each time the state employee logs onto the
3261 program's website, and each time the enrollee receives written enrollment information from the
3262 program, provide notice to the enrollee of the enrollee's participation in the electronic exchange
3263 of clinical health records and the option to opt out of participation at any time; and

3264 (u) provide services for drugs or medical devices at the request of a procurement unit,
3265 as that term is defined in Section [~~63G-6a-104~~] [63G-6a-103](#), that administers benefits to
3266 program recipients who are not covered by Title 26, Utah Health Code.

3267 (2) (a) Funds budgeted and expended shall accrue from rates paid by the covered
3268 employers and covered individuals.

3269 (b) Administrative costs shall be approved by the board and reported to the governor
3270 and the Legislature.

3271 (3) The Department of Human Resource Management shall include the benefit
3272 adjustments described in Subsection (1)(j) in the total compensation plan recommended to the
3273 governor required under Subsection [67-19-12\(5\)\(a\)](#).

3274 Section 45. Section **53B-8-101** is amended to read:

3275 **53B-8-101. Waiver of tuition.**

3276 (1) (a) The president of an institution of higher education described in Section
3277 [53B-2-101](#) may waive all or part of the tuition in behalf of meritorious or impecunious resident

3278 students to an amount not exceeding 10% of the total amount of tuition which, in the absence
3279 of the waivers, would have been collected from all Utah resident students at the institution of
3280 higher education.

3281 (b) Two and a half percent of the waivers designated in Subsection (1)(a) shall be set
3282 aside for members of the Utah National Guard. Waivers shall be preserved by the student at
3283 least 60 days before the beginning of an academic term.

3284 (2) (a) A president of an institution of higher education listed in Subsections
3285 [53B-2-101](#)(1)(a) through (h) may waive all or part of the nonresident portion of tuition for a
3286 meritorious nonresident undergraduate student.

3287 (b) In determining which students are meritorious for purposes of granting a tuition
3288 waiver under Subsection (2)(a), a president shall consider students who are performing above
3289 the average at the institution of higher education, including having an admissions index higher
3290 than the average for the institution, if an admissions index is used.

3291 (c) A president may continue to waive the nonresident portion of tuition for a student
3292 described in Subsection (2)(a) for as long as the student is enrolled at the institution of higher
3293 education.

3294 (d) In addition to waiving the nonresident portion of tuition for a meritorious
3295 nonresident student under Subsection (2)(a), a president may waive the resident portion of
3296 tuition after the meritorious nonresident student completes a year of full-time study at the
3297 institution of higher education.

3298 (3) To encourage students to enroll for instruction in occupations critical to the state for
3299 which trained personnel are in short supply, a president of an institution of higher education
3300 shall grant additional full or partial tuition waivers upon recommendation of:

3301 (a) the board, for an institution of higher education described in Subsection
3302 [53B-1-102](#)(1)(a); or

3303 (b) the Utah System of Technical Colleges Board of Trustees, for a technical college.

3304 (4) A president may waive all or part of the difference between resident and
3305 nonresident tuition in the case of:

- 3306 (a) meritorious graduate students; or
3307 (b) nonresident summer school students.
3308 (5) (a) The board shall submit an annual budget appropriation request for each
3309 institution of higher education described in Subsections 53B-2-101(1)(a) through (h).
3310 (b) The Utah System of Technical Colleges Board of Trustees shall submit an annual
3311 budget appropriation request for each technical college.
3312 (c) A request described in Subsection (5)(a) or (b) shall include requests for funds
3313 sufficient in amount to equal the estimated loss of dedicated credits that would be realized if all
3314 of the tuition waivers authorized by Subsection (2) were granted.
- 3315 Section 46. Section **53B-8-202** is amended to read:
3316 **53B-8-202. Regents' Scholarship Program -- General provisions -- Board policies.**
3317 (1) This section only applies to a student who graduates from high school on or before
3318 July 1, 2018.
3319 (2) The Regents' Scholarship Program is created to award merit scholarships to
3320 students who complete a rigorous core course of study in high school.
3321 (3) (a) A student who is awarded the Base Regents' scholarship established in Section
3322 53B-8-203 may also be awarded each of the supplemental awards established in Sections
3323 53B-8-204 and 53B-8-205.
3324 (b) A student may not receive both a Regents' scholarship and a New Century
3325 scholarship established in Section 53B-8-105.
3326 (4) A Regents' scholarship may only be used at a:
3327 (a) credit-granting higher education institution within the state system of higher
3328 education; or
3329 (b) private, nonprofit college or university in the state that is accredited by the
3330 Northwest Commission on Colleges and Universities.
3331 (5) (a) A scholarship holder shall enroll full-time at a higher education institution
3332 described in Subsection (4) by no later than the fall term immediately following the student's
3333 high school graduation date or receive an approved deferral from the board.

3334 (b) The board may grant a deferral or leave of absence to a scholarship holder, but the
3335 student may only receive scholarship money within five years of the student's high school
3336 graduation date.

3337 (6) (a) The board shall annually report on the Regents' Scholarship Program at the
3338 beginning of each school year to the Higher Education Appropriations Subcommittee.

3339 (b) The board shall ensure that the report includes the number of students in each
3340 school district and public high school who meet the academic criteria for the Base Regents'
3341 scholarship and for the Exemplary Academic Achievement Scholarship.

3342 (c) The State Board of Education, school districts, and public high schools shall
3343 cooperate with the board to facilitate the collection and distribution of Regents' Scholarship
3344 Program data.

3345 (7) The State Board of Education shall annually provide the board a complete list of
3346 directory information, including student name and address, for all grade 8 students in the state.

3347 (8) The board shall adopt policies establishing:

3348 (a) the high school and college course requirements described in Subsection
3349 ~~53B-2-203~~ [53B-8-203\(2\)\(d\)\(i\)](#);

3350 (b) the additional weights assigned to grades earned in certain courses described in
3351 Subsections [53B-8-203\(5\)](#) and [53B-8-205\(8\)](#);

3352 (c) the regional accrediting bodies that may accredit a private high school described in
3353 Subsection [53B-8-203\(2\)\(a\)\(ii\)](#);

3354 (d) (i) the application process and an appeal process for a Regents' scholarship,
3355 including procedures to allow a student to apply for the scholarship on-line; and

3356 (ii) a disclosure on all applications and related materials that the amount of the awards
3357 is subject to funding and may be reduced, in accordance with Subsection (9)(b); and

3358 (e) how college credits correlate to high school units for purposes of Subsection
3359 [53B-8-203\(2\)\(d\)\(i\)](#).

3360 (9) (a) Subject to future budget constraints, the Legislature shall make an annual
3361 appropriation from the Education Fund to the board for the costs associated with the Regents'

3362 Scholarship Program authorized under this section and Sections 53B-8-203, 53B-8-204, and
3363 53B-8-205.

3364 (b) Notwithstanding the provisions of this section and Sections 53B-8-203, 53B-8-204,
3365 and 53B-8-205, if the appropriation under Subsection (9)(a) is insufficient to cover the costs
3366 associated with the Regents' Scholarship Program, the board may reduce the amount of the
3367 Base Regents' scholarships and supplemental awards.

3368 (10) The board may set deadlines for receiving Regents' scholarship applications and
3369 supporting documentation.

3370 Section 47. Section 53F-8-303 is amended to read:

3371 **53F-8-303. Capital local levy -- First class county required levy -- Allowable uses**
3372 **of collected revenue.**

3373 (1) (a) Subject to the other requirements of this section, a local school board may levy a
3374 tax to fund the school district's capital projects.

3375 (b) A tax rate imposed by a school district pursuant to this section may not exceed
3376 .0030 per dollar of taxable value in any calendar year.

3377 (2) A school district that imposes a capital local levy in the calendar year beginning on
3378 January 1, 2012, is exempt from the public notice and hearing requirements of Section
3379 59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to
3380 or less than the sum of the following amounts:

3381 (a) the amount of revenue generated during the calendar year beginning on January 1,
3382 2011, from the sum of the following levies of a school district:

3383 (i) a capital outlay levy imposed under Section 53F-8-401; and

3384 (ii) the portion of the 10% of basic levy described in Section 53F-8-405 that is
3385 budgeted for debt service or capital outlay; and

3386 (b) revenue from eligible new growth as defined in Section 59-2-924.

3387 ~~[(3) (a) Subject to Subsections (3)(b), (c), and (d), for fiscal year 2013-14, a local~~
3388 ~~school board may utilize the proceeds of a maximum of .0024 per dollar of taxable value of the~~
3389 ~~local school board's annual capital local levy for general fund purposes if the proceeds are not~~

3390 committed or dedicated to pay debt service or bond payments.]

3391 ~~[(b) If a local school board uses the proceeds described in Subsection (3)(a) for general~~
3392 ~~fund purposes, the local school board shall notify the public of the local school board's use of~~
3393 ~~the capital local levy proceeds for general fund purposes:]~~

3394 ~~[(i) before the local school board's budget hearing in accordance with the notification~~
3395 ~~requirements described in Section 53G-7-303; and]~~

3396 ~~[(ii) at a budget hearing required in Section 53G-7-303:]~~

3397 ~~[(c) A local school board may not use the proceeds described in Subsection (3)(a) to~~
3398 ~~fund the following accounting function classifications as provided in the Financial Accounting~~
3399 ~~for Local and State School Systems guidelines developed by the National Center for Education~~
3400 ~~Statistics:]~~

3401 ~~[(i) 2300 Support Services - General District Administration; or]~~

3402 ~~[(ii) 2500 Support Services - Central Services:]~~

3403 Section 48. Section 53G-3-304 is amended to read:

3404 **53G-3-304. Property tax levies in new district and remaining district --**

3405 **Distribution of property tax revenue.**

3406 (1) Notwithstanding terms defined in Section 53G-3-102, as used in this section:

3407 (a) "Divided school district" or "existing district" means a school district from which a
3408 new district is created.

3409 (b) "New district" means a school district created under Section 53G-3-302 after May
3410 10, 2011.

3411 (c) "Property tax levy" means a property tax levy that a school district is authorized to
3412 impose, except:

3413 (i) the minimum basic rate imposed under Section 53F-2-301;

3414 (ii) a debt service levy imposed under Section 11-14-310; or

3415 (iii) a judgment levy imposed under Section 59-2-1330.

3416 (d) "Qualifying taxable year" means the calendar year in which a new district begins to
3417 provide educational services.

3418 (e) "Remaining district" means an existing district after the creation of a new district.

3419 (2) A new district and remaining district shall continue to impose property tax levies
3420 that were imposed by the divided school district in the taxable year prior to the qualifying
3421 taxable year.

3422 (3) Except as provided in Subsection (6), a property tax levy that a new district and
3423 remaining district are required to impose under Subsection (2) shall be set at a rate that:

3424 (a) is uniform in the new district and remaining district; and

3425 (b) generates the same amount of revenue that was generated by the property tax levy
3426 within the divided school district in the taxable year prior to the qualifying taxable year.

3427 (4) ~~[(a) Except as provided in Subsection (4)(b), the]~~ The county treasurer of the
3428 county in which a property tax levy is imposed under Subsection (2) shall distribute revenues
3429 generated by the property tax levy to the new district and remaining district in proportion to the
3430 percentage of the divided school district's enrollment on the October 1 prior to the new district
3431 commencing educational services that were enrolled in schools currently located in the new
3432 district or remaining district.

3433 ~~[(b) The county treasurer of a county of the first class shall distribute revenues
3434 generated by a capital local levy of .0006 that a school district in a county of the first class is
3435 required to impose under Section 53F-8-303 in accordance with the distribution method
3436 specified in Section 53A-16-114.]~~

3437 (5) On or before March 31, a county treasurer shall distribute revenues generated by a
3438 property tax levy imposed under Subsection (2) in the prior calendar year to a new district and
3439 remaining district as provided in Subsection (4).

3440 (6) (a) Subject to the notice and public hearing requirements of Section 59-2-919, a
3441 new district or remaining district may set a property tax rate higher than the rate required by
3442 Subsection (3), up to:

3443 (i) the maximum rate, if any, allowed by law; or

3444 (ii) the maximum rate authorized by voters for a voted local levy under Section
3445 53F-8-301.

3446 (b) The revenues generated by the portion of a property tax rate in excess of the rate
3447 required by Subsection (3) shall be retained by the district that imposes the higher rate.

3448 Section 49. Section 55-12-116 is amended to read:

3449 **55-12-116. Financial arrangements.**

3450 The compact administrator, subject to the approval of the [~~Department~~] Division of
3451 Finance, may make or arrange for any payments necessary to discharge any financial
3452 obligations imposed upon this state by the compact or by any supplementary agreement entered
3453 into.

3454 Section 50. Section 57-19-5 is amended to read:

3455 **57-19-5. Registration -- Filing application.**

3456 (1) A person may apply for registration of a development by filing with the division:

3457 (a) an application in the form prescribed by the director;

3458 (b) the written disclosure described in Section 57-19-11; and

3459 (c) financial statements and other information that the director may by rule made in
3460 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, require as being
3461 reasonably necessary to determine whether the requirements of this chapter have been met and
3462 whether any of the events specified in Subsection 57-19-13~~(1)~~(2)(g) have occurred.

3463 (2) An interest in a development that is encumbered by a lien, mortgage, or other
3464 encumbrance may not be accepted for registration or offered to the public unless:

3465 (a) adequate release or nondisturbance clauses are contained in the encumbering
3466 instruments to reasonably assure that the purchaser's interest in the development will not be
3467 defeated; or

3468 (b) the division accepts other equivalent assurances that, in the division's opinion, meet
3469 the purposes of this Subsection (2).

3470 (3) (a) A person who applies for a development registration shall include with the
3471 application a filing fee of \$500 for up to 100 interests, plus an additional \$3 per interest for
3472 each interest over 100, up to a maximum of \$2,500 for each application.

3473 (b) If the division determines that an on-site inspection of the development is

3474 necessary, the development shall pay the division the actual amount of the costs and expenses
3475 incurred by the division in performing the on-site inspection.

3476 (4) A person may add an additional site or interest to an approved development
3477 registration by:

3478 (a) filing an application for consolidation accompanied by an additional fee of \$200
3479 plus \$3 for each additional interest, up to a maximum of \$1,250 for each application; and

3480 (b) providing the information required under Subsection (1) for each additional site or
3481 interest.

3482 Section 51. Section **58-37f-304** is amended to read:

3483 **58-37f-304. Database utilization.**

3484 (1) As used in this section:

3485 (a) "Dispenser" means a licensed pharmacist, as described in Section [58-17b-303](#), or
3486 the pharmacist's licensed intern, as described in Section [58-17b-304](#), who is also licensed to
3487 dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

3488 (b) "Outpatient" means a setting in which an individual visits a licensed healthcare
3489 facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a
3490 licensed healthcare facility for an overnight stay.

3491 (c) "Prescriber" means an individual authorized to prescribe a controlled substance
3492 under Title 58, Chapter 37, Utah Controlled Substances Act.

3493 (d) "Schedule II opioid" means those substances listed in Subsection [58-37-4\(2\)\(b\)\(i\)](#)
3494 or [\(2\)\(b\)\(ii\)](#).

3495 (e) "Schedule III opioid" means those substances listed in Subsection [58-37-4\(2\)\(c\)](#)
3496 that are opioids.

3497 (2) (a) A prescriber shall substantially comply with this Subsection (2).

3498 (b) Except as provided in Subsection (2)(~~b~~)(c), a prescriber shall check the database
3499 for information about a patient before the first time the prescriber gives a prescription to a
3500 patient for a Schedule II opioid or a Schedule III opioid.

3501 (c) A prescriber is not required to check the database under Subsection (2)(b) if:

3502 (i) the prescription for a Schedule II opioid or a Schedule III opioid is for three days or
3503 fewer on the daily dosage instructions on the prescription;

3504 (ii) the prescriber has prior knowledge of the patient's prescription history based on the
3505 prescriber's review of the patient's health record; or

3506 (iii) the prescription for a Schedule II opioid or a Schedule III opioid is a post surgical
3507 prescription and the total duration of opioid written after the surgery has been for 30 days or
3508 fewer.

3509 (d) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid
3510 to a patient, the prescriber shall periodically review information about the patient in:

3511 (i) the database; or

3512 (ii) other similar records of controlled substances the patient has filled.

3513 (e) A prescriber may assign the access and review required under Subsections (2)(b)
3514 and (2)(c) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

3515 (f) The division shall not take action against the license of a prescriber for failure to
3516 follow this Subsection (2) if the prescriber demonstrates substantial compliance with the
3517 requirements of this Subsection (2).

3518 (3) The division shall, in collaboration with the licensing boards for prescribers and
3519 dispensers:

3520 (a) develop a system that gathers and reports to prescribers and dispensers the progress
3521 and results of the prescriber's and dispenser's individual access and review of the database, as
3522 provided in this section; and

3523 (b) reduce or waive the division's continuing education requirements regarding opioid
3524 prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to
3525 the database, for prescribers and dispensers whose individual utilization of the database, as
3526 determined by the division, demonstrates substantial compliance with this section.

3527 (4) If the dispenser's access and review of the database suggest that the individual
3528 seeking an opioid may be obtaining opioids in quantities or frequencies inconsistent with
3529 generally recognized standards as provided in this section and Section 58-37f-201, the

3530 dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed,
3531 current, and professional decision regarding whether the prescribed opioid is medically
3532 justified, notwithstanding the results of the database search.

3533 Section 52. Section **58-55-102** is amended to read:

3534 **58-55-102. Definitions.**

3535 In addition to the definitions in Section **58-1-102**, as used in this chapter:

3536 (1) (a) "Alarm business or company" means a person engaged in the sale, installation,
3537 maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system,
3538 except as provided in Subsection (1)(b).

3539 (b) "Alarm business or company" does not include:

3540 (i) a person engaged in the manufacture or sale of alarm systems unless:

3541 (A) that person is also engaged in the installation, maintenance, alteration, repair,
3542 replacement, servicing, or monitoring of alarm systems;

3543 (B) the manufacture or sale occurs at a location other than a place of business
3544 established by the person engaged in the manufacture or sale; or

3545 (C) the manufacture or sale involves site visits at the place or intended place of
3546 installation of an alarm system; or

3547 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
3548 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
3549 of the alarm system owned by that owner.

3550 (2) "Alarm company agent":

3551 (a) except as provided in Subsection (2)(b), means any individual employed within this
3552 state by an alarm business; and

3553 (b) does not include an individual who:

3554 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
3555 servicing, or monitoring of an alarm system; and

3556 (ii) does not, during the normal course of the individual's employment with an alarm
3557 business, use or have access to sensitive alarm system information.

3558 (3) "Alarm system" means equipment and devices assembled for the purpose of:

3559 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
3560 premises; or

3561 (b) signaling a robbery or attempted robbery on protected premises.

3562 (4) "Apprentice electrician" means a person licensed under this chapter as an
3563 apprentice electrician who is learning the electrical trade under the immediate supervision of a
3564 master electrician, residential master electrician, a journeyman electrician, or a residential
3565 journeyman electrician.

3566 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
3567 plumber who is learning the plumbing trade under the immediate supervision of a master
3568 plumber, residential master plumber, journeyman plumber, or a residential journeyman
3569 plumber.

3570 (6) "Approved continuing education" means instruction provided through courses
3571 under a program established under Subsection [58-55-302.5\(2\)](#).

3572 (7) (a) "Approved prelicensure course provider" means a provider that is approved by
3573 the commission with the concurrence of the director, and that meets the requirements
3574 established by rule by the commission with the concurrence of the director, to teach the
3575 25-hour course described in Subsection [58-55-302\(1\)\(e\)\(iii\)](#).

3576 (b) "Approved prelicensure course provider" may only include a provider that, in
3577 addition to any other locations, offers the 25-hour course described in Subsection
3578 [58-55-302\(1\)\(e\)\(iii\)](#) at least six times each year in one or more counties other than Salt Lake
3579 County, Utah County, Davis County, or Weber County.

3580 (8) "Board" means the Electrician Licensing Board, Alarm System Security and
3581 Licensing Board, or Plumbers Licensing Board created in Section [58-55-201](#).

3582 (9) "Combustion system" means an assembly consisting of:

3583 (a) piping and components with a means for conveying, either continuously or
3584 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
3585 appliance;

3586 (b) the electric control and combustion air supply and venting systems, including air
3587 ducts; and

3588 (c) components intended to achieve control of quantity, flow, and pressure.

3589 (10) "Commission" means the Construction Services Commission created under
3590 Section [58-55-103](#).

3591 (11) "Construction trade" means any trade or occupation involving:

3592 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
3593 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
3594 or other project, development, or improvement to other than personal property; and

3595 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as
3596 defined in Section [15A-1-302](#); or

3597 (b) installation or repair of a residential or commercial natural gas appliance or
3598 combustion system.

3599 (12) "Construction trades instructor" means a person licensed under this chapter to
3600 teach one or more construction trades in both a classroom and project environment, where a
3601 project is intended for sale to or use by the public and is completed under the direction of the
3602 instructor, who has no economic interest in the project.

3603 (13) (a) "Contractor" means any person who for compensation other than wages as an
3604 employee undertakes any work in the construction, plumbing, or electrical trade for which
3605 licensure is required under this chapter and includes:

3606 (i) a person who builds any structure on the person's own property for the purpose of
3607 sale or who builds any structure intended for public use on the person's own property;

3608 (ii) any person who represents that the person is a contractor, or will perform a service
3609 described in this Subsection (13), by advertising on a website or social media, or any other
3610 means;

3611 (iii) any person engaged as a maintenance person, other than an employee, who
3612 regularly engages in activities set forth under the definition of "construction trade";

3613 (iv) any person engaged in, or offering to engage in, any construction trade for which

3614 licensure is required under this chapter; or

3615 (v) a construction manager, construction consultant, construction assistant, or any other
3616 person who, for a fee:

3617 (A) performs or offers to perform construction consulting;

3618 (B) performs or offers to perform management of construction subcontractors;

3619 (C) provides or offers to provide a list of subcontractors or suppliers; or

3620 (D) provides or offers to provide management or counseling services on a construction
3621 project.

3622 (b) "Contractor" does not include:

3623 (i) an alarm company or alarm company agent; or

3624 (ii) a material supplier who provides consulting to customers regarding the design and
3625 installation of the material supplier's products.

3626 (14) (a) "Electrical trade" means the performance of any electrical work involved in the
3627 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
3628 buildings, or appendages or appurtenances.

3629 (b) "Electrical trade" does not include:

3630 (i) transporting or handling electrical materials;

3631 (ii) preparing clearance for raceways for wiring; or

3632 (iii) work commonly done by unskilled labor on any installations under the exclusive
3633 control of electrical utilities.

3634 (c) For purposes of Subsection (14)(b):

3635 (i) no more than one unlicensed person may be so employed unless more than five
3636 licensed electricians are employed by the shop; and

3637 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
3638 permitted by this Subsection (14)(c).

3639 (15) "Elevator" means the same as that term is defined in Section [34A-7-202](#), except
3640 that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an
3641 incline platform lift.

3642 (16) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under
3643 this chapter that is engaged in the business of erecting, constructing, installing, altering,
3644 servicing, repairing, or maintaining an elevator.

3645 (17) "Elevator mechanic" means an individual who is licensed under this chapter as an
3646 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,
3647 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

3648 (18) "Employee" means an individual as defined by the division by rule giving
3649 consideration to the definition adopted by the Internal Revenue Service and the Department of
3650 Workforce Services.

3651 (19) "Engage in a construction trade" means to:

3652 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
3653 in a construction trade; or

3654 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
3655 to believe one is or will act as a contractor.

3656 (20) (a) "Financial responsibility" means a demonstration of a current and expected
3657 future condition of financial solvency evidencing a reasonable expectation to the division and
3658 the board that an applicant or licensee can successfully engage in business as a contractor
3659 without jeopardy to the public health, safety, and welfare.

3660 (b) Financial responsibility may be determined by an evaluation of the total history
3661 concerning the licensee or applicant including past, present, and expected condition and record
3662 of financial solvency and business conduct.

3663 (21) "Gas appliance" means any device that uses natural gas to produce light, heat,
3664 power, steam, hot water, refrigeration, or air conditioning.

3665 (22) (a) "General building contractor" means a person licensed under this chapter as a
3666 general building contractor qualified by education, training, experience, and knowledge to
3667 perform or superintend construction of structures for the support, shelter, and enclosure of
3668 persons, animals, chattels, or movable property of any kind or any of the components of that
3669 construction except plumbing, electrical work, mechanical work, work related to the operating

3670 integrity of an elevator, and manufactured housing installation, for which the general building
3671 contractor shall employ the services of a contractor licensed in the particular specialty, except
3672 that a general building contractor engaged in the construction of single-family and multifamily
3673 residences up to four units may perform the mechanical work and hire a licensed plumber or
3674 electrician as an employee.

3675 (b) The division may by rule exclude general building contractors from engaging in the
3676 performance of other construction specialties in which there is represented a substantial risk to
3677 the public health, safety, and welfare, and for which a license is required unless that general
3678 building contractor holds a valid license in that specialty classification.

3679 (23) (a) "General electrical contractor" means a person licensed under this chapter as a
3680 general electrical contractor qualified by education, training, experience, and knowledge to
3681 perform the fabrication, construction, and installation of generators, transformers, conduits,
3682 raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses
3683 electrical energy.

3684 (b) The scope of work of a general electrical contractor may be further defined by rules
3685 made by the commission, with the concurrence of the director, in accordance with Title 63G,
3686 Chapter 3, Utah Administrative Rulemaking Act.

3687 (24) (a) "General engineering contractor" means a person licensed under this chapter as
3688 a general engineering contractor qualified by education, training, experience, and knowledge to
3689 perform construction of fixed works in any of the following: irrigation, drainage, water, power,
3690 water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports
3691 and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring
3692 specialized engineering knowledge and skill, piers, and foundations, or any of the components
3693 of those works.

3694 (b) A general engineering contractor may not perform construction of structures built
3695 primarily for the support, shelter, and enclosure of persons, animals, and chattels.

3696 (25) (a) "General plumbing contractor" means a person licensed under this chapter as a
3697 general plumbing contractor qualified by education, training, experience, and knowledge to

3698 perform the fabrication or installation of material and fixtures to create and maintain sanitary
3699 conditions in a building by providing permanent means for a supply of safe and pure water, a
3700 means for the timely and complete removal from the premises of all used or contaminated
3701 water, fluid and semi-fluid organic wastes and other impurities incidental to life and the
3702 occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and
3703 industrial purposes.

3704 (b) The scope of work of a general plumbing contractor may be further defined by rules
3705 made by the commission, with the concurrence of the director, in accordance with Title 63G,
3706 Chapter 3, Utah Administrative Rulemaking Act.

3707 (26) "Immediate supervision" means reasonable direction, oversight, inspection, and
3708 evaluation of the work of a person:

3709 (a) as the division specifies in rule;

3710 (b) by, as applicable, a qualified electrician or plumber;

3711 (c) as part of a planned program of training; and

3712 (d) to ensure that the end result complies with applicable standards.

3713 (27) "Individual" means a natural person.

3714 (28) "Journeyman electrician" means a person licensed under this chapter as a
3715 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
3716 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

3717 (29) "Journeyman plumber" means a person licensed under this chapter as a
3718 journeyman plumber having the qualifications, training, experience, and technical knowledge
3719 to engage in the plumbing trade.

3720 (30) "Master electrician" means a person licensed under this chapter as a master
3721 electrician having the qualifications, training, experience, and knowledge to properly plan,
3722 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
3723 for light, heat, power, and other purposes.

3724 (31) "Master plumber" means a person licensed under this chapter as a master plumber
3725 having the qualifications, training, experience, and knowledge to properly plan and layout

3726 projects and supervise persons in the plumbing trade.

3727 (32) "Person" means a natural person, sole proprietorship, joint venture, corporation,
3728 limited liability company, association, or organization of any type.

3729 (33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
3730 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
3731 three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

3732 (i) delivery of the water supply;

3733 (ii) discharge of liquid and water carried waste;

3734 (iii) building drainage system within the walls of the building; and

3735 (iv) delivery of gases for lighting, heating, and industrial purposes.

3736 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
3737 fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the
3738 safe and adequate supply of gases, together with their devices, appurtenances, and connections
3739 where installed within the outside walls of the building.

3740 (34) (a) "Ratio of apprentices" means, for the purpose of determining compliance with
3741 the requirements for planned programs of training and electrician apprentice licensing
3742 applications, the shop ratio of apprentice electricians to journeyman or master electricians shall
3743 be one journeyman or master electrician to one apprentice on industrial and commercial work,
3744 and one journeyman or master electrician to three apprentices on residential work.

3745 (b) On-the-job training shall be under circumstances in which the ratio of apprentices
3746 to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to
3747 three apprentices to one supervisor on residential projects.

3748 (35) "Residential and small commercial contractor" means a person licensed under this
3749 chapter as a residential and small commercial contractor qualified by education, training,
3750 experience, and knowledge to perform or superintend the construction of single-family
3751 residences, multifamily residences up to four units, and commercial construction of not more
3752 than three stories above ground and not more than 20,000 square feet, or any of the components
3753 of that construction except plumbing, electrical work, mechanical work, and manufactured

3754 housing installation, for which the residential and small commercial contractor shall employ
3755 the services of a contractor licensed in the particular specialty, except that a residential and
3756 small commercial contractor engaged in the construction of single-family and multifamily
3757 residences up to four units may perform the mechanical work and hire a licensed plumber or
3758 electrician as an employee.

3759 (36) "Residential building," as it relates to the license classification of residential
3760 journeyman plumber and residential master plumber, means a single or multiple family
3761 dwelling of up to four units.

3762 (37) (a) "Residential electrical contractor" means a person licensed under this chapter
3763 as a residential electrical contractor qualified by education, training, experience, and
3764 knowledge to perform the fabrication, construction, and installation of services, disconnecting
3765 means, grounding devices, panels, conductors, load centers, lighting and plug circuits,
3766 appliances, and fixtures in a residential unit.

3767 (b) The scope of work of a residential electrical contractor may be further defined by
3768 rules made by the commission, with the concurrence of the director, in accordance with Title
3769 63G, Chapter 3, Utah Administrative Rulemaking Act.

3770 (38) "Residential journeyman electrician" means a person licensed under this chapter
3771 as a residential journeyman electrician having the qualifications, training, experience, and
3772 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,
3773 and other purposes on buildings using primarily nonmetallic sheath cable.

3774 (39) "Residential journeyman plumber" means a person licensed under this chapter as a
3775 residential journeyman plumber having the qualifications, training, experience, and knowledge
3776 to engage in the plumbing trade as limited to the plumbing of residential buildings.

3777 (40) "Residential master electrician" means a person licensed under this chapter as a
3778 residential master electrician having the qualifications, training, experience, and knowledge to
3779 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus
3780 and equipment for light, heat, power, and other purposes on residential projects.

3781 (41) "Residential master plumber" means a person licensed under this chapter as a

3782 residential master plumber having the qualifications, training, experience, and knowledge to
3783 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
3784 plumbing of residential buildings.

3785 (42) (a) "Residential plumbing contractor" means a person licensed under this chapter
3786 as a ~~general~~ residential plumbing contractor qualified by education, training, experience, and
3787 knowledge to perform the fabrication or installation of material and fixtures to create and
3788 maintain sanitary conditions in residential buildings by providing permanent means for a
3789 supply of safe and pure water, a means for the timely and complete removal from the premises
3790 of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities
3791 incidental to life and the occupation of such premises, and a safe and adequate supply of gases
3792 for lighting, heating, and industrial purposes.

3793 (b) The scope of work of a residential plumbing contractor may be further defined by
3794 rules made by the commission, with the concurrence of the director, in accordance with Title
3795 63G, Chapter 3, Utah Administrative Rulemaking Act.

3796 (43) "Residential project," as it relates to an electrician or electrical contractor, means
3797 buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules
3798 and regulations governing this work, including the National Electrical Code, and in which the
3799 voltage does not exceed 250 volts line to line and 125 volts to ground.

3800 (44) "Sensitive alarm system information" means:

3801 (a) a pass code or other code used in the operation of an alarm system;

3802 (b) information on the location of alarm system components at the premises of a
3803 customer of the alarm business providing the alarm system;

3804 (c) information that would allow the circumvention, bypass, deactivation, or other
3805 compromise of an alarm system of a customer of the alarm business providing the alarm
3806 system; and

3807 (d) any other similar information that the division by rule determines to be information
3808 that an individual employed by an alarm business should use or have access to only if the
3809 individual is licensed as provided in this chapter.

3810 (45) (a) "Specialty contractor" means a person licensed under this chapter under a
3811 specialty contractor classification established by rule, who is qualified by education, training,
3812 experience, and knowledge to perform those construction trades and crafts requiring
3813 specialized skill, the regulation of which are determined by the division to be in the best
3814 interest of the public health, safety, and welfare.

3815 (b) A specialty contractor may perform work in crafts or trades other than those in
3816 which the specialty contractor is licensed if they are incidental to the performance of the
3817 specialty contractor's licensed craft or trade.

3818 (46) "Unincorporated entity" means an entity that is not:

- 3819 (a) an individual;
- 3820 (b) a corporation; or
- 3821 (c) publicly traded.

3822 (47) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)
3823 and [58-55-501](#).

3824 (48) "Unprofessional conduct" means the same as that term is defined in Sections
3825 [58-1-501](#) and [58-55-502](#) and as may be further defined by rule.

3826 (49) "Wages" means amounts due to an employee for labor or services whether the
3827 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating
3828 the amount.

3829 Section 53. Section **58-87-401** is amended to read:

3830 **58-87-401. Prohibited conduct.**

3831 (1) An athlete agent, with the intent to influence a student athlete or, if the athlete is a
3832 minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of
3833 the following actions or encourage any other individual to take or assist any other individual in
3834 taking any of the following actions on behalf of the agent:

3835 (a) give materially false or misleading information or make a materially false promise
3836 or representation;

3837 (b) furnish anything of value to the athlete before the athlete enters into the contract; or

3838 (c) furnish anything of value to an individual other than the athlete or another
3839 registered athlete agent.

3840 (2) An athlete agent may not intentionally do any of the following or encourage any
3841 other individual to do any of the following on behalf of the agent:

3842 (a) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a
3843 minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to
3844 enter into an agency contract unless registered under this chapter;

3845 (b) fail to create or retain or to permit inspection of the records required by Section
3846 ~~[58-87-305]~~ [58-87-304](#);

3847 (c) fail to register when required by Section [58-87-201](#);

3848 (d) provide materially false or misleading information in an application for registration
3849 or renewal of registration;

3850 (e) predate or postdate an agency contract; or

3851 (f) fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the
3852 athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport
3853 that the signing may make the athlete ineligible to participate as a student athlete in that sport.

3854 Section 54. Section **59-2-1346** is amended to read:

3855 **59-2-1346. Redemption -- Time allowed.**

3856 (1) Property may be redeemed on behalf of the record owner by any person at any time
3857 before the tax sale which shall be held in May or June as provided in Section [59-2-1351](#)
3858 following the lapse of four years from the date the property tax became delinquent.

3859 (2) A person may redeem property by paying to the county treasurer all delinquent
3860 taxes, interest, penalties, and administrative costs that have accrued on the property.

3861 (3) (a) Subject to Subsection (3)(d), a person may redeem a subdivided lot by paying
3862 the county treasurer the subdivided lot's proportional share of the delinquent taxes, interest,
3863 penalties, and administrative costs accrued on the base parcel, calculated in accordance with
3864 Subsection (3)(b).

3865 (b) The county treasurer shall calculate the amount described in Subsection (3)(a) by

3866 comparing:

3867 (i) the amount of the value of the base parcel as described in Subsection (3)(b)(ii) that
3868 is attributable to the property that comprises the subdivided lot as the property existed on
3869 January 1 of the year in which the delinquent property taxes on the base parcel were assessed;
3870 and

3871 (ii) the value of the base parcel as it existed on January 1 of the year in which the
3872 delinquent property taxes on the base parcel were assessed.

3873 (c) If the county treasurer does not have sufficient information to calculate the amount
3874 described in Subsection (3)(~~a~~)(b)(i), upon request from the county treasurer, the county
3875 assessor shall provide the county treasurer any information necessary to calculate the amount
3876 described in Subsection (3)(~~a~~)(b)(i).

3877 (d) A person may redeem a subdivided lot under this Subsection (3) only if the record
3878 owner of the subdivided lot is a bona fide purchaser.

3879 (4) At any time before the expiration of the period of redemption the county treasurer
3880 shall accept and credit on account for the redemption of property, payments in amounts of not
3881 less than \$10, except for the final payment, which may be in any amount. For the purpose of
3882 computing the amount required for redemption and for the purpose of distributing the payments
3883 received on account, all payments shall be applied in the following order:

3884 (a) against the interest and administrative costs accrued on the delinquent tax for the
3885 last year included in the delinquent account at the time of payment;

3886 (b) against the penalty charged on the delinquent tax for the last year included in the
3887 delinquent account at the time of payment;

3888 (c) against the delinquent tax for the last year included in the delinquent account at the
3889 time of payment;

3890 (d) against the interest and administrative costs accrued on the delinquent tax for the
3891 next to last year included in the delinquent account at the time of payment;

3892 (e) and so on until the full amount of the delinquent taxes, penalties, administrative
3893 costs, and interest on the unpaid balances are paid within the period of redemption.

3894 Section 55. Section **59-12-102** is amended to read:

3895 **59-12-102. Definitions.**

3896 As used in this chapter:

3897 (1) "800 service" means a telecommunications service that:

3898 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

3899 (b) is typically marketed:

3900 (i) under the name 800 toll-free calling;

3901 (ii) under the name 855 toll-free calling;

3902 (iii) under the name 866 toll-free calling;

3903 (iv) under the name 877 toll-free calling;

3904 (v) under the name 888 toll-free calling; or

3905 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

3906 Federal Communications Commission.

3907 (2) (a) "900 service" means an inbound toll telecommunications service that:

3908 (i) a subscriber purchases;

3909 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

3910 the subscriber's:

3911 (A) prerecorded announcement; or

3912 (B) live service; and

3913 (iii) is typically marketed:

3914 (A) under the name 900 service; or

3915 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

3916 Communications Commission.

3917 (b) "900 service" does not include a charge for:

3918 (i) a collection service a seller of a telecommunications service provides to a

3919 subscriber; or

3920 (ii) the following a subscriber sells to the subscriber's customer:

3921 (A) a product; or

- 3922 (B) a service.
- 3923 (3) (a) "Admission or user fees" includes season passes.
- 3924 (b) "Admission or user fees" does not include annual membership dues to private
- 3925 organizations.
- 3926 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
- 3927 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
- 3928 Agreement after November 12, 2002.
- 3929 (5) "Agreement combined tax rate" means the sum of the tax rates:
- 3930 (a) listed under Subsection (6); and
- 3931 (b) that are imposed within a local taxing jurisdiction.
- 3932 (6) "Agreement sales and use tax" means a tax imposed under:
- 3933 (a) Subsection 59-12-103(2)(a)(i)(A);
- 3934 (b) Subsection 59-12-103(2)(b)(i);
- 3935 (c) Subsection 59-12-103(2)(c)(i);
- 3936 (d) Subsection 59-12-103(2)(d)(i)(A)(I);
- 3937 (e) Section 59-12-204;
- 3938 (f) Section 59-12-401;
- 3939 (g) Section 59-12-402;
- 3940 (h) Section 59-12-402.1;
- 3941 (i) Section 59-12-703;
- 3942 (j) Section 59-12-802;
- 3943 (k) Section 59-12-804;
- 3944 (l) Section 59-12-1102;
- 3945 (m) Section 59-12-1302;
- 3946 (n) Section 59-12-1402;
- 3947 (o) Section 59-12-1802;
- 3948 (p) Section 59-12-2003;
- 3949 (q) Section 59-12-2103;

- 3950 (r) Section 59-12-2213;
- 3951 (s) Section 59-12-2214;
- 3952 (t) Section 59-12-2215;
- 3953 (u) Section 59-12-2216;
- 3954 (v) Section 59-12-2217;
- 3955 (w) Section 59-12-2218; or
- 3956 (x) Section 59-12-2219.
- 3957 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 3958 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 3959 (a) except for:
- 3960 (i) an airline as defined in Section 59-2-102; or
- 3961 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 3962 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 3963 state, of an airline; and
- 3964 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 3965 whether the business entity performs the following in this state:
- 3966 (i) check, diagnose, overhaul, and repair:
- 3967 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 3968 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 3969 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 3970 engine;
- 3971 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 3972 aircraft:
- 3973 (A) an inspection;
- 3974 (B) a repair, including a structural repair or modification;
- 3975 (C) changing landing gear; and
- 3976 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 3977 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and

- 3978 completely apply new paint to the fixed wing turbine powered aircraft; and
- 3979 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 3980 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 3981 authority that certifies the fixed wing turbine powered aircraft.
- 3982 (9) "Alcoholic beverage" means a beverage that:
- 3983 (a) is suitable for human consumption; and
- 3984 (b) contains .5% or more alcohol by volume.
- 3985 (10) "Alternative energy" means:
- 3986 (a) biomass energy;
- 3987 (b) geothermal energy;
- 3988 (c) hydroelectric energy;
- 3989 (d) solar energy;
- 3990 (e) wind energy; or
- 3991 (f) energy that is derived from:
- 3992 (i) coal-to-liquids;
- 3993 (ii) nuclear fuel;
- 3994 (iii) oil-impregnated diatomaceous earth;
- 3995 (iv) oil sands;
- 3996 (v) oil shale;
- 3997 (vi) petroleum coke; or
- 3998 (vii) waste heat from:
- 3999 (A) an industrial facility; or
- 4000 (B) a power station in which an electric generator is driven through a process in which
- 4001 water is heated, turns into steam, and spins a steam turbine.
- 4002 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 4003 facility" means a facility that:
- 4004 (i) uses alternative energy to produce electricity; and
- 4005 (ii) has a production capacity of two megawatts or greater.

4006 (b) A facility is an alternative energy electricity production facility regardless of
4007 whether the facility is:

- 4008 (i) connected to an electric grid; or
- 4009 (ii) located on the premises of an electricity consumer.

4010 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
4011 provision of telecommunications service.

4012 (b) "Ancillary service" includes:

- 4013 (i) a conference bridging service;
- 4014 (ii) a detailed communications billing service;
- 4015 (iii) directory assistance;
- 4016 (iv) a vertical service; or
- 4017 (v) a voice mail service.

4018 (13) "Area agency on aging" means the same as that term is defined in Section
4019 [62A-3-101](#).

4020 (14) "Assisted amusement device" means an amusement device, skill device, or ride
4021 device that is started and stopped by an individual:

4022 (a) who is not the purchaser or renter of the right to use or operate the amusement
4023 device, skill device, or ride device; and

4024 (b) at the direction of the seller of the right to use the amusement device, skill device,
4025 or ride device.

4026 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
4027 washing of tangible personal property if the cleaning or washing labor is primarily performed
4028 by an individual:

4029 (a) who is not the purchaser of the cleaning or washing of the tangible personal
4030 property; and

4031 (b) at the direction of the seller of the cleaning or washing of the tangible personal
4032 property.

4033 (16) "Authorized carrier" means:

4034 (a) in the case of vehicles operated over public highways, the holder of credentials
4035 indicating that the vehicle is or will be operated pursuant to both the International Registration
4036 Plan and the International Fuel Tax Agreement;

4037 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
4038 certificate or air carrier's operating certificate; or

4039 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
4040 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
4041 stock in more than one state.

4042 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
4043 following that is used as the primary source of energy to produce fuel or electricity:

4044 (i) material from a plant or tree; or

4045 (ii) other organic matter that is available on a renewable basis, including:

4046 (A) slash and brush from forests and woodlands;

4047 (B) animal waste;

4048 (C) waste vegetable oil;

4049 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
4050 wastewater residuals, or through the conversion of a waste material through a nonincineration,
4051 thermal conversion process;

4052 (E) aquatic plants; and

4053 (F) agricultural products.

4054 (b) "Biomass energy" does not include:

4055 (i) black liquor; or

4056 (ii) treated woods.

4057 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
4058 property, products, or services if the tangible personal property, products, or services are:

4059 (i) distinct and identifiable; and

4060 (ii) sold for one nonitemized price.

4061 (b) "Bundled transaction" does not include:

4062 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
4063 the basis of the selection by the purchaser of the items of tangible personal property included in
4064 the transaction;

4065 (ii) the sale of real property;

4066 (iii) the sale of services to real property;

4067 (iv) the retail sale of tangible personal property and a service if:

4068 (A) the tangible personal property:

4069 (I) is essential to the use of the service; and

4070 (II) is provided exclusively in connection with the service; and

4071 (B) the service is the true object of the transaction;

4072 (v) the retail sale of two services if:

4073 (A) one service is provided that is essential to the use or receipt of a second service;

4074 (B) the first service is provided exclusively in connection with the second service; and

4075 (C) the second service is the true object of the transaction;

4076 (vi) a transaction that includes tangible personal property or a product subject to
4077 taxation under this chapter and tangible personal property or a product that is not subject to
4078 taxation under this chapter if the:

4079 (A) seller's purchase price of the tangible personal property or product subject to
4080 taxation under this chapter is de minimis; or

4081 (B) seller's sales price of the tangible personal property or product subject to taxation
4082 under this chapter is de minimis; and

4083 (vii) the retail sale of tangible personal property that is not subject to taxation under
4084 this chapter and tangible personal property that is subject to taxation under this chapter if:

4085 (A) that retail sale includes:

4086 (I) food and food ingredients;

4087 (II) a drug;

4088 (III) durable medical equipment;

4089 (IV) mobility enhancing equipment;

- 4090 (V) an over-the-counter drug;
- 4091 (VI) a prosthetic device; or
- 4092 (VII) a medical supply; and
- 4093 (B) subject to Subsection (18)(f):
 - 4094 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 4095 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 4096 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 4097 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 4098 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 4099 service that is distinct and identifiable does not include:
 - 4100 (A) packaging that:
 - 4101 (I) accompanies the sale of the tangible personal property, product, or service; and
 - 4102 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
 - 4103 service;
 - 4104 (B) tangible personal property, a product, or a service provided free of charge with the
 - 4105 purchase of another item of tangible personal property, a product, or a service; or
 - 4106 (C) an item of tangible personal property, a product, or a service included in the
 - 4107 definition of "purchase price."
- 4108 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 4109 product, or a service is provided free of charge with the purchase of another item of tangible
- 4110 personal property, a product, or a service if the sales price of the purchased item of tangible
- 4111 personal property, product, or service does not vary depending on the inclusion of the tangible
- 4112 personal property, product, or service provided free of charge.
- 4113 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 4114 does not include a price that is separately identified by tangible personal property, product, or
- 4115 service on the following, regardless of whether the following is in paper format or electronic
- 4116 format:
 - 4117 (A) a binding sales document; or

- 4118 (B) another supporting sales-related document that is available to a purchaser.
- 4119 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 4120 supporting sales-related document that is available to a purchaser includes:
 - 4121 (A) a bill of sale;
 - 4122 (B) a contract;
 - 4123 (C) an invoice;
 - 4124 (D) a lease agreement;
 - 4125 (E) a periodic notice of rates and services;
 - 4126 (F) a price list;
 - 4127 (G) a rate card;
 - 4128 (H) a receipt; or
 - 4129 (I) a service agreement.
- 4130 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 4131 property or a product subject to taxation under this chapter is de minimis if:
 - 4132 (A) the seller's purchase price of the tangible personal property or product is 10% or
 - 4133 less of the seller's total purchase price of the bundled transaction; or
 - 4134 (B) the seller's sales price of the tangible personal property or product is 10% or less of
 - 4135 the seller's total sales price of the bundled transaction.
- 4136 (ii) For purposes of Subsection (18)(b)(vi), a seller:
 - 4137 (A) shall use the seller's purchase price or the seller's sales price to determine if the
 - 4138 purchase price or sales price of the tangible personal property or product subject to taxation
 - 4139 under this chapter is de minimis; and
 - 4140 (B) may not use a combination of the seller's purchase price and the seller's sales price
 - 4141 to determine if the purchase price or sales price of the tangible personal property or product
 - 4142 subject to taxation under this chapter is de minimis.
- 4143 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 4144 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 4145 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of

4146 the seller's purchase price and the seller's sales price to determine if tangible personal property
4147 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
4148 price of that retail sale.

4149 (19) "Certified automated system" means software certified by the governing board of
4150 the agreement that:

4151 (a) calculates the agreement sales and use tax imposed within a local taxing
4152 jurisdiction:

4153 (i) on a transaction; and

4154 (ii) in the states that are members of the agreement;

4155 (b) determines the amount of agreement sales and use tax to remit to a state that is a
4156 member of the agreement; and

4157 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

4158 (20) "Certified service provider" means an agent certified:

4159 (a) by the governing board of the agreement; and

4160 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
4161 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
4162 own purchases.

4163 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
4164 suitable for general use.

4165 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4166 commission shall make rules:

4167 (i) listing the items that constitute "clothing"; and

4168 (ii) that are consistent with the list of items that constitute "clothing" under the
4169 agreement.

4170 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

4171 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
4172 fuels that does not constitute industrial use under Subsection (56) or residential use under
4173 Subsection (106).

4174 (24) (a) "Common carrier" means a person engaged in or transacting the business of
4175 transporting passengers, freight, merchandise, or other property for hire within this state.

4176 (b) (i) "Common carrier" does not include a person who, at the time the person is
4177 traveling to or from that person's place of employment, transports a passenger to or from the
4178 passenger's place of employment.

4179 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
4180 Utah Administrative Rulemaking Act, the commission may make rules defining what
4181 constitutes a person's place of employment.

4182 (c) "Common carrier" does not include a person that provides transportation network
4183 services, as defined in Section [13-51-102](#).

4184 (25) "Component part" includes:

4185 (a) poultry, dairy, and other livestock feed, and their components;

4186 (b) baling ties and twine used in the baling of hay and straw;

4187 (c) fuel used for providing temperature control of orchards and commercial
4188 greenhouses doing a majority of their business in wholesale sales, and for providing power for
4189 off-highway type farm machinery; and

4190 (d) feed, seeds, and seedlings.

4191 (26) "Computer" means an electronic device that accepts information:

4192 (a) (i) in digital form; or

4193 (ii) in a form similar to digital form; and

4194 (b) manipulates that information for a result based on a sequence of instructions.

4195 (27) "Computer software" means a set of coded instructions designed to cause:

4196 (a) a computer to perform a task; or

4197 (b) automatic data processing equipment to perform a task.

4198 (28) "Computer software maintenance contract" means a contract that obligates a seller
4199 of computer software to provide a customer with:

4200 (a) future updates or upgrades to computer software;

4201 (b) support services with respect to computer software; or

4202 (c) a combination of Subsections (28)(a) and (b).

4203 (29) (a) "Conference bridging service" means an ancillary service that links two or
4204 more participants of an audio conference call or video conference call.

4205 (b) "Conference bridging service" may include providing a telephone number as part of
4206 the ancillary service described in Subsection (29)(a).

4207 (c) "Conference bridging service" does not include a telecommunications service used
4208 to reach the ancillary service described in Subsection (29)(a).

4209 (30) "Construction materials" means any tangible personal property that will be
4210 converted into real property.

4211 (31) "Delivered electronically" means delivered to a purchaser by means other than
4212 tangible storage media.

4213 (32) (a) "Delivery charge" means a charge:

4214 (i) by a seller of:

4215 (A) tangible personal property;

4216 (B) a product transferred electronically; or

4217 (C) services; and

4218 (ii) for preparation and delivery of the tangible personal property, product transferred
4219 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
4220 purchaser.

4221 (b) "Delivery charge" includes a charge for the following:

4222 (i) transportation;

4223 (ii) shipping;

4224 (iii) postage;

4225 (iv) handling;

4226 (v) crating; or

4227 (vi) packing.

4228 (33) "Detailed telecommunications billing service" means an ancillary service of
4229 separately stating information pertaining to individual calls on a customer's billing statement.

- 4230 (34) "Dietary supplement" means a product, other than tobacco, that:
- 4231 (a) is intended to supplement the diet;
- 4232 (b) contains one or more of the following dietary ingredients:
- 4233 (i) a vitamin;
- 4234 (ii) a mineral;
- 4235 (iii) an herb or other botanical;
- 4236 (iv) an amino acid;
- 4237 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 4238 dietary intake; or
- 4239 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 4240 described in Subsections (34)(b)(i) through (v);
- 4241 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 4242 (A) tablet form;
- 4243 (B) capsule form;
- 4244 (C) powder form;
- 4245 (D) softgel form;
- 4246 (E) gelcap form; or
- 4247 (F) liquid form; or
- 4248 (ii) if the product is not intended for ingestion in a form described in Subsections
- 4249 (34)(c)(i)(A) through (F), is not represented:
- 4250 (A) as conventional food; and
- 4251 (B) for use as a sole item of:
- 4252 (I) a meal; or
- 4253 (II) the diet; and
- 4254 (d) is required to be labeled as a dietary supplement:
- 4255 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 4256 (ii) as required by 21 C.F.R. Sec. 101.36.
- 4257 (35) "Digital audio-visual work" means a series of related images which, when shown

4258 in succession, imparts an impression of motion, together with accompanying sounds, if any.

4259 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
4260 musical, spoken, or other sounds.

4261 (b) "Digital audio work" includes a ringtone.

4262 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
4263 sense as a book.

4264 (38) (a) "Direct mail" means printed material delivered or distributed by United States
4265 mail or other delivery service:

4266 (i) to:

4267 (A) a mass audience; or

4268 (B) addressees on a mailing list provided:

4269 (I) by a purchaser of the mailing list; or

4270 (II) at the discretion of the purchaser of the mailing list; and

4271 (ii) if the cost of the printed material is not billed directly to the recipients.

4272 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
4273 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

4274 (c) "Direct mail" does not include multiple items of printed material delivered to a
4275 single address.

4276 (39) "Directory assistance" means an ancillary service of providing:

4277 (a) address information; or

4278 (b) telephone number information.

4279 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
4280 or supplies that:

4281 (i) cannot withstand repeated use; and

4282 (ii) are purchased by, for, or on behalf of a person other than:

4283 (A) a health care facility as defined in Section [26-21-2](#);

4284 (B) a health care provider as defined in Section [78B-3-403](#);

4285 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

- 4286 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
- 4287 (b) "Disposable home medical equipment or supplies" does not include:
- 4288 (i) a drug;
- 4289 (ii) durable medical equipment;
- 4290 (iii) a hearing aid;
- 4291 (iv) a hearing aid accessory;
- 4292 (v) mobility enhancing equipment; or
- 4293 (vi) tangible personal property used to correct impaired vision, including:
- 4294 (A) eyeglasses; or
- 4295 (B) contact lenses.
- 4296 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4297 commission may by rule define what constitutes medical equipment or supplies.
- 4298 (41) "Drilling equipment manufacturer" means a facility:
- 4299 (a) located in the state;
- 4300 (b) with respect to which 51% or more of the manufacturing activities of the facility
- 4301 consist of manufacturing component parts of drilling equipment;
- 4302 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
- 4303 manufacturing process; and
- 4304 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
- 4305 manufacturing process.
- 4306 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 4307 compound, substance, or preparation that is:
- 4308 (i) recognized in:
- 4309 (A) the official United States Pharmacopoeia;
- 4310 (B) the official Homeopathic Pharmacopoeia of the United States;
- 4311 (C) the official National Formulary; or
- 4312 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 4313 (ii) intended for use in the:

- 4314 (A) diagnosis of disease;
- 4315 (B) cure of disease;
- 4316 (C) mitigation of disease;
- 4317 (D) treatment of disease; or
- 4318 (E) prevention of disease; or
- 4319 (iii) intended to affect:
 - 4320 (A) the structure of the body; or
 - 4321 (B) any function of the body.
- 4322 (b) "Drug" does not include:
 - 4323 (i) food and food ingredients;
 - 4324 (ii) a dietary supplement;
 - 4325 (iii) an alcoholic beverage; or
 - 4326 (iv) a prosthetic device.
- 4327 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
- 4328 equipment that:
 - 4329 (i) can withstand repeated use;
 - 4330 (ii) is primarily and customarily used to serve a medical purpose;
 - 4331 (iii) generally is not useful to a person in the absence of illness or injury; and
 - 4332 (iv) is not worn in or on the body.
- 4333 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 4334 equipment described in Subsection (43)(a).
- 4335 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 4336 (44) "Electronic" means:
 - 4337 (a) relating to technology; and
 - 4338 (b) having:
 - 4339 (i) electrical capabilities;
 - 4340 (ii) digital capabilities;
 - 4341 (iii) magnetic capabilities;

- 4342 (iv) wireless capabilities;
- 4343 (v) optical capabilities;
- 4344 (vi) electromagnetic capabilities; or
- 4345 (vii) capabilities similar to Subsections (44)(b)(i) through (vi).
- 4346 (45) "Electronic financial payment service" means an establishment:
- 4347 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 4348 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 4349 federal Executive Office of the President, Office of Management and Budget; and
- 4350 (b) that performs electronic financial payment services.
- 4351 (46) "Employee" means the same as that term is defined in Section [59-10-401](#).
- 4352 (47) "Fixed guideway" means a public transit facility that uses and occupies:
- 4353 (a) rail for the use of public transit; or
- 4354 (b) a separate right-of-way for the use of public transit.
- 4355 (48) "Fixed wing turbine powered aircraft" means an aircraft that:
- 4356 (a) is powered by turbine engines;
- 4357 (b) operates on jet fuel; and
- 4358 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 4359 (49) "Fixed wireless service" means a telecommunications service that provides radio
- 4360 communication between fixed points.
- 4361 (50) (a) "Food and food ingredients" means substances:
- 4362 (i) regardless of whether the substances are in:
- 4363 (A) liquid form;
- 4364 (B) concentrated form;
- 4365 (C) solid form;
- 4366 (D) frozen form;
- 4367 (E) dried form; or
- 4368 (F) dehydrated form; and
- 4369 (ii) that are:

- 4370 (A) sold for:
- 4371 (I) ingestion by humans; or
- 4372 (II) chewing by humans; and
- 4373 (B) consumed for the substance's:
- 4374 (I) taste; or
- 4375 (II) nutritional value.
- 4376 (b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
- 4377 (c) "Food and food ingredients" does not include:
- 4378 (i) an alcoholic beverage;
- 4379 (ii) tobacco; or
- 4380 (iii) prepared food.
- 4381 (51) (a) "Fundraising sales" means sales:
- 4382 (i) (A) made by a school; or
- 4383 (B) made by a school student;
- 4384 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 4385 materials, or provide transportation; and
- 4386 (iii) that are part of an officially sanctioned school activity.
- 4387 (b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity"
- 4388 means a school activity:
- 4389 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 4390 district governing the authorization and supervision of fundraising activities;
- 4391 (ii) that does not directly or indirectly compensate an individual teacher or other
- 4392 educational personnel by direct payment, commissions, or payment in kind; and
- 4393 (iii) the net or gross revenues from which are deposited in a dedicated account
- 4394 controlled by the school or school district.
- 4395 (52) "Geothermal energy" means energy contained in heat that continuously flows
- 4396 outward from the earth that is used as the sole source of energy to produce electricity.
- 4397 (53) "Governing board of the agreement" means the governing board of the agreement

4398 that is:

4399 (a) authorized to administer the agreement; and

4400 (b) established in accordance with the agreement.

4401 (54) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

4402 (i) the executive branch of the state, including all departments, institutions, boards,
4403 divisions, bureaus, offices, commissions, and committees;

4404 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
4405 Office of the Court Administrator, and similar administrative units in the judicial branch;

4406 (iii) the legislative branch of the state, including the House of Representatives, the
4407 Senate, the Legislative Printing Office, the Office of Legislative Research and General
4408 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
4409 Analyst;

4410 (iv) the National Guard;

4411 (v) an independent entity as defined in Section 63E-1-102; or

4412 (vi) a political subdivision as defined in Section 17B-1-102.

4413 (b) "Governmental entity" does not include the state systems of public and higher
4414 education, including:

4415 (i) a school;

4416 (ii) the State Board of Education;

4417 (iii) the State Board of Regents; or

4418 (iv) an institution of higher education described in Section 53B-1-102.

4419 (55) "Hydroelectric energy" means water used as the sole source of energy to produce
4420 electricity.

4421 (56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
4422 other fuels:

4423 (a) in mining or extraction of minerals;

4424 (b) in agricultural operations to produce an agricultural product up to the time of
4425 harvest or placing the agricultural product into a storage facility, including:

- 4426 (i) commercial greenhouses;
- 4427 (ii) irrigation pumps;
- 4428 (iii) farm machinery;
- 4429 (iv) implements of husbandry as defined in Section [41-1a-102](#) that are not registered
- 4430 under Title 41, Chapter 1a, Part 2, Registration; and
- 4431 (v) other farming activities;
- 4432 (c) in manufacturing tangible personal property at an establishment described in SIC
- 4433 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 4434 Executive Office of the President, Office of Management and Budget;
- 4435 (d) by a scrap recycler if:
- 4436 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 4437 one or more of the following items into prepared grades of processed materials for use in new
- 4438 products:
- 4439 (A) iron;
- 4440 (B) steel;
- 4441 (C) nonferrous metal;
- 4442 (D) paper;
- 4443 (E) glass;
- 4444 (F) plastic;
- 4445 (G) textile; or
- 4446 (H) rubber; and
- 4447 (ii) the new products under Subsection (56)(d)(i) would otherwise be made with
- 4448 nonrecycled materials; or
- 4449 (e) in producing a form of energy or steam described in Subsection [54-2-1\(3\)\(a\)](#) by a
- 4450 cogeneration facility as defined in Section [54-2-1](#).
- 4451 (57) (a) Except as provided in Subsection (57)(b), "installation charge" means a charge
- 4452 for installing:
- 4453 (i) tangible personal property; or

- 4454 (ii) a product transferred electronically.
- 4455 (b) "Installation charge" does not include a charge for:
- 4456 (i) repairs or renovations of:
- 4457 (A) tangible personal property; or
- 4458 (B) a product transferred electronically; or
- 4459 (ii) attaching tangible personal property or a product transferred electronically:
- 4460 (A) to other tangible personal property; and
- 4461 (B) as part of a manufacturing or fabrication process.
- 4462 (58) "Institution of higher education" means an institution of higher education listed in
- 4463 Section [53B-2-101](#).
- 4464 (59) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 4465 personal property or a product transferred electronically for:
- 4466 (i) (A) a fixed term; or
- 4467 (B) an indeterminate term; and
- 4468 (ii) consideration.
- 4469 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 4470 amount of consideration may be increased or decreased by reference to the amount realized
- 4471 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 4472 Code.
- 4473 (c) "Lease" or "rental" does not include:
- 4474 (i) a transfer of possession or control of property under a security agreement or
- 4475 deferred payment plan that requires the transfer of title upon completion of the required
- 4476 payments;
- 4477 (ii) a transfer of possession or control of property under an agreement that requires the
- 4478 transfer of title:
- 4479 (A) upon completion of required payments; and
- 4480 (B) if the payment of an option price does not exceed the greater of:
- 4481 (I) \$100; or

- 4482 (II) 1% of the total required payments; or
- 4483 (iii) providing tangible personal property along with an operator for a fixed period of
- 4484 time or an indeterminate period of time if the operator is necessary for equipment to perform as
- 4485 designed.
- 4486 (d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to
- 4487 perform as designed if the operator's duties exceed the:
- 4488 (i) set-up of tangible personal property;
- 4489 (ii) maintenance of tangible personal property; or
- 4490 (iii) inspection of tangible personal property.
- 4491 (60) "Life science establishment" means an establishment in this state that is classified
- 4492 under the following NAICS codes of the 2007 North American Industry Classification System
- 4493 of the federal Executive Office of the President, Office of Management and Budget:
- 4494 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 4495 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 4496 Manufacturing; or
- 4497 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 4498 (61) "Life science research and development facility" means a facility owned, leased,
- 4499 or rented by a life science establishment if research and development is performed in 51% or
- 4500 more of the total area of the facility.
- 4501 (62) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 4502 if the tangible storage media is not physically transferred to the purchaser.
- 4503 (63) "Local taxing jurisdiction" means a:
- 4504 (a) county that is authorized to impose an agreement sales and use tax;
- 4505 (b) city that is authorized to impose an agreement sales and use tax; or
- 4506 (c) town that is authorized to impose an agreement sales and use tax.
- 4507 (64) "Manufactured home" means the same as that term is defined in Section
- 4508 [15A-1-302](#).
- 4509 (65) "Manufacturing facility" means:

- 4510 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
4511 Industrial Classification Manual of the federal Executive Office of the President, Office of
4512 Management and Budget;
- 4513 (b) a scrap recycler if:
- 4514 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
4515 one or more of the following items into prepared grades of processed materials for use in new
4516 products:
- 4517 (A) iron;
 - 4518 (B) steel;
 - 4519 (C) nonferrous metal;
 - 4520 (D) paper;
 - 4521 (E) glass;
 - 4522 (F) plastic;
 - 4523 (G) textile; or
 - 4524 (H) rubber; and
- 4525 (ii) the new products under Subsection (65)(b)(i) would otherwise be made with
4526 nonrecycled materials; or
- 4527 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is
4528 placed in service on or after May 1, 2006.
- 4529 (66) "Member of the immediate family of the producer" means a person who is related
4530 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 4531 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 4532 (i) an adopted child or adopted stepchild; or
 - 4533 (ii) a foster child or foster stepchild;
 - 4534 (b) grandchild or stepgrandchild;
 - 4535 (c) grandparent or stepgrandparent;
 - 4536 (d) nephew or stepnephew;
 - 4537 (e) niece or stepniece;

- 4538 (f) parent or stepparent;
- 4539 (g) sibling or stepsibling;
- 4540 (h) spouse;
- 4541 (i) person who is the spouse of a person described in Subsections (66)(a) through (g);

4542 or

- 4543 (j) person similar to a person described in Subsections (66)(a) through (i) as
- 4544 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 4545 Administrative Rulemaking Act.

4546 (67) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

4547 (68) "Mobile telecommunications service" ~~[is as]~~ means the same as that term is

4548 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4549 (69) (a) "Mobile wireless service" means a telecommunications service, regardless of

4550 the technology used, if:

- 4551 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 4552 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 4553 (iii) the origination point described in Subsection (69)(a)(i) and the termination point
- 4554 described in Subsection (69)(a)(ii) are not fixed.

4555 (b) "Mobile wireless service" includes a telecommunications service that is provided

4556 by a commercial mobile radio service provider.

4557 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4558 commission may by rule define "commercial mobile radio service provider."

4559 (70) (a) Except as provided in Subsection (70)(c), "mobility enhancing equipment"

4560 means equipment that is:

4561 (i) primarily and customarily used to provide or increase the ability to move from one

4562 place to another;

4563 (ii) appropriate for use in a:

4564 (A) home; or

4565 (B) motor vehicle; and

- 4566 (iii) not generally used by persons with normal mobility.
- 4567 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
- 4568 the equipment described in Subsection (70)(a).
- 4569 (c) "Mobility enhancing equipment" does not include:
- 4570 (i) a motor vehicle;
- 4571 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
- 4572 vehicle manufacturer;
- 4573 (iii) durable medical equipment; or
- 4574 (iv) a prosthetic device.
- 4575 (71) "Model 1 seller" means a seller registered under the agreement that has selected a
- 4576 certified service provider as the seller's agent to perform all of the seller's sales and use tax
- 4577 functions for agreement sales and use taxes other than the seller's obligation under Section
- 4578 [59-12-124](#) to remit a tax on the seller's own purchases.
- 4579 (72) "Model 2 seller" means a seller registered under the agreement that:
- 4580 (a) except as provided in Subsection (72)(b), has selected a certified automated system
- 4581 to perform the seller's sales tax functions for agreement sales and use taxes; and
- 4582 (b) retains responsibility for remitting all of the sales tax:
- 4583 (i) collected by the seller; and
- 4584 (ii) to the appropriate local taxing jurisdiction.
- 4585 (73) (a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under
- 4586 the agreement that has:
- 4587 (i) sales in at least five states that are members of the agreement;
- 4588 (ii) total annual sales revenues of at least \$500,000,000;
- 4589 (iii) a proprietary system that calculates the amount of tax:
- 4590 (A) for an agreement sales and use tax; and
- 4591 (B) due to each local taxing jurisdiction; and
- 4592 (iv) entered into a performance agreement with the governing board of the agreement.
- 4593 (b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of

4594 sellers using the same proprietary system.

4595 (74) "Model 4 seller" means a seller that is registered under the agreement and is not a
4596 model 1 seller, model 2 seller, or model 3 seller.

4597 (75) "Modular home" means a modular unit as defined in Section [15A-1-302](#).

4598 (76) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

4599 (77) "Oil sands" means impregnated bituminous sands that:

4600 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
4601 other hydrocarbons, or otherwise treated;

4602 (b) yield mixtures of liquid hydrocarbon; and

4603 (c) require further processing other than mechanical blending before becoming finished
4604 petroleum products.

4605 (78) "Oil shale" means a group of fine black to dark brown shales containing kerogen
4606 material that yields petroleum upon heating and distillation.

4607 (79) "Optional computer software maintenance contract" means a computer software
4608 maintenance contract that a customer is not obligated to purchase as a condition to the retail
4609 sale of computer software.

4610 (80) (a) "Other fuels" means products that burn independently to produce heat or
4611 energy.

4612 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
4613 personal property.

4614 (81) (a) "Paging service" means a telecommunications service that provides
4615 transmission of a coded radio signal for the purpose of activating a specific pager.

4616 (b) For purposes of Subsection (81)(a), the transmission of a coded radio signal
4617 includes a transmission by message or sound.

4618 (82) "Pawnbroker" means the same as that term is defined in Section [13-32a-102](#).

4619 (83) "Pawn transaction" means the same as that term is defined in Section [13-32a-102](#).

4620 (84) (a) "Permanently attached to real property" means that for tangible personal
4621 property attached to real property:

- 4622 (i) the attachment of the tangible personal property to the real property:
- 4623 (A) is essential to the use of the tangible personal property; and
- 4624 (B) suggests that the tangible personal property will remain attached to the real
- 4625 property in the same place over the useful life of the tangible personal property; or
- 4626 (ii) if the tangible personal property is detached from the real property, the detachment
- 4627 would:
- 4628 (A) cause substantial damage to the tangible personal property; or
- 4629 (B) require substantial alteration or repair of the real property to which the tangible
- 4630 personal property is attached.
- 4631 (b) "Permanently attached to real property" includes:
- 4632 (i) the attachment of an accessory to the tangible personal property if the accessory is:
- 4633 (A) essential to the operation of the tangible personal property; and
- 4634 (B) attached only to facilitate the operation of the tangible personal property;
- 4635 (ii) a temporary detachment of tangible personal property from real property for a
- 4636 repair or renovation if the repair or renovation is performed where the tangible personal
- 4637 property and real property are located; or
- 4638 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 4639 Subsection (84)(c)(iii) or (iv).
- 4640 (c) "Permanently attached to real property" does not include:
- 4641 (i) the attachment of portable or movable tangible personal property to real property if
- 4642 that portable or movable tangible personal property is attached to real property only for:
- 4643 (A) convenience;
- 4644 (B) stability; or
- 4645 (C) for an obvious temporary purpose;
- 4646 (ii) the detachment of tangible personal property from real property except for the
- 4647 detachment described in Subsection (84)(b)(ii);
- 4648 (iii) an attachment of the following tangible personal property to real property if the
- 4649 attachment to real property is only through a line that supplies water, electricity, gas,

4650 telecommunications, cable, or supplies a similar item as determined by the commission by rule
4651 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

4652 (A) a computer;

4653 (B) a telephone;

4654 (C) a television; or

4655 (D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as
4656 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
4657 Administrative Rulemaking Act; or

4658 (iv) an item listed in Subsection (125)(c).

4659 (85) "Person" includes any individual, firm, partnership, joint venture, association,
4660 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
4661 municipality, district, or other local governmental entity of the state, or any group or
4662 combination acting as a unit.

4663 (86) "Place of primary use":

4664 (a) for telecommunications service other than mobile telecommunications service,
4665 means the street address representative of where the customer's use of the telecommunications
4666 service primarily occurs, which shall be:

4667 (i) the residential street address of the customer; or

4668 (ii) the primary business street address of the customer; or

4669 (b) for mobile telecommunications service, [~~is as~~] means the same as that term is
4670 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

4671 (87) (a) "Postpaid calling service" means a telecommunications service a person
4672 obtains by making a payment on a call-by-call basis:

4673 (i) through the use of a:

4674 (A) bank card;

4675 (B) credit card;

4676 (C) debit card; or

4677 (D) travel card; or

4678 (ii) by a charge made to a telephone number that is not associated with the origination
4679 or termination of the telecommunications service.

4680 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
4681 service, that would be a prepaid wireless calling service if the service were exclusively a
4682 telecommunications service.

4683 (88) "Postproduction" means an activity related to the finishing or duplication of a
4684 medium described in Subsection 59-12-104(54)(a).

4685 (89) "Prepaid calling service" means a telecommunications service:

4686 (a) that allows a purchaser access to telecommunications service that is exclusively
4687 telecommunications service;

4688 (b) that:

4689 (i) is paid for in advance; and

4690 (ii) enables the origination of a call using an:

4691 (A) access number; or

4692 (B) authorization code;

4693 (c) that is dialed:

4694 (i) manually; or

4695 (ii) electronically; and

4696 (d) sold in predetermined units or dollars that decline:

4697 (i) by a known amount; and

4698 (ii) with use.

4699 (90) "Prepaid wireless calling service" means a telecommunications service:

4700 (a) that provides the right to utilize:

4701 (i) mobile wireless service; and

4702 (ii) other service that is not a telecommunications service, including:

4703 (A) the download of a product transferred electronically;

4704 (B) a content service; or

4705 (C) an ancillary service;

- 4706 (b) that:
- 4707 (i) is paid for in advance; and
- 4708 (ii) enables the origination of a call using an:
- 4709 (A) access number; or
- 4710 (B) authorization code;
- 4711 (c) that is dialed:
- 4712 (i) manually; or
- 4713 (ii) electronically; and
- 4714 (d) sold in predetermined units or dollars that decline:
- 4715 (i) by a known amount; and
- 4716 (ii) with use.
- 4717 (91) (a) "Prepared food" means:
- 4718 (i) food:
- 4719 (A) sold in a heated state; or
- 4720 (B) heated by a seller;
- 4721 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 4722 item; or
- 4723 (iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
- 4724 by the seller, including a:
- 4725 (A) plate;
- 4726 (B) knife;
- 4727 (C) fork;
- 4728 (D) spoon;
- 4729 (E) glass;
- 4730 (F) cup;
- 4731 (G) napkin; or
- 4732 (H) straw.
- 4733 (b) "Prepared food" does not include:

- 4734 (i) food that a seller only:
- 4735 (A) cuts;
- 4736 (B) repackages; or
- 4737 (C) pasteurizes; or
- 4738 (ii) (A) the following:
- 4739 (I) raw egg;
- 4740 (II) raw fish;
- 4741 (III) raw meat;
- 4742 (IV) raw poultry; or
- 4743 (V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
- 4744 and
- 4745 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 4746 Food and Drug Administration's Food Code that a consumer cook the items described in
- 4747 Subsection (91)(b)(ii)(A) to prevent food borne illness; or
- 4748 (iii) the following if sold without eating utensils provided by the seller:
- 4749 (A) food and food ingredients sold by a seller if the seller's proper primary
- 4750 classification under the 2002 North American Industry Classification System of the federal
- 4751 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 4752 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 4753 Manufacturing;
- 4754 (B) food and food ingredients sold in an unheated state:
- 4755 (I) by weight or volume; and
- 4756 (II) as a single item; or
- 4757 (C) a bakery item, including:
- 4758 (I) a bagel;
- 4759 (II) a bar;
- 4760 (III) a biscuit;
- 4761 (IV) bread;

- 4762 (V) a bun;
- 4763 (VI) a cake;
- 4764 (VII) a cookie;
- 4765 (VIII) a croissant;
- 4766 (IX) a danish;
- 4767 (X) a donut;
- 4768 (XI) a muffin;
- 4769 (XII) a pastry;
- 4770 (XIII) a pie;
- 4771 (XIV) a roll;
- 4772 (XV) a tart;
- 4773 (XVI) a torte; or
- 4774 (XVII) a tortilla.
- 4775 (c) An eating utensil provided by the seller does not include the following used to
- 4776 transport the food:
 - 4777 (i) a container; or
 - 4778 (ii) packaging.
- 4779 (92) "Prescription" means an order, formula, or recipe that is issued:
 - 4780 (a) (i) orally;
 - 4781 (ii) in writing;
 - 4782 (iii) electronically; or
 - 4783 (iv) by any other manner of transmission; and
 - 4784 (b) by a licensed practitioner authorized by the laws of a state.
- 4785 (93) (a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer
- 4786 software" means computer software that is not designed and developed:
 - 4787 (i) by the author or other creator of the computer software; and
 - 4788 (ii) to the specifications of a specific purchaser.
- 4789 (b) "Prewritten computer software" includes:

4790 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
4791 software is not designed and developed:

4792 (A) by the author or other creator of the computer software; and

4793 (B) to the specifications of a specific purchaser;

4794 (ii) computer software designed and developed by the author or other creator of the
4795 computer software to the specifications of a specific purchaser if the computer software is sold
4796 to a person other than the purchaser; or

4797 (iii) except as provided in Subsection (93)(c), prewritten computer software or a
4798 prewritten portion of prewritten computer software:

4799 (A) that is modified or enhanced to any degree; and

4800 (B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is
4801 designed and developed to the specifications of a specific purchaser.

4802 (c) "Prewritten computer software" does not include a modification or enhancement
4803 described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:

4804 (i) reasonable; and

4805 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
4806 invoice or other statement of price provided to the purchaser at the time of sale or later, as
4807 demonstrated by:

4808 (A) the books and records the seller keeps at the time of the transaction in the regular
4809 course of business, including books and records the seller keeps at the time of the transaction in
4810 the regular course of business for nontax purposes;

4811 (B) a preponderance of the facts and circumstances at the time of the transaction; and

4812 (C) the understanding of all of the parties to the transaction.

4813 (94) (a) "Private communications service" means a telecommunications service:

4814 (i) that entitles a customer to exclusive or priority use of one or more communications
4815 channels between or among termination points; and

4816 (ii) regardless of the manner in which the one or more communications channels are
4817 connected.

4818 (b) "Private communications service" includes the following provided in connection
4819 with the use of one or more communications channels:

4820 (i) an extension line;

4821 (ii) a station;

4822 (iii) switching capacity; or

4823 (iv) another associated service that is provided in connection with the use of one or
4824 more communications channels as defined in Section 59-12-215.

4825 (95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
4826 means a product transferred electronically that would be subject to a tax under this chapter if
4827 that product was transferred in a manner other than electronically.

4828 (b) "Product transferred electronically" does not include:

4829 (i) an ancillary service;

4830 (ii) computer software; or

4831 (iii) a telecommunications service.

4832 (96) (a) "Prosthetic device" means a device that is worn on or in the body to:

4833 (i) artificially replace a missing portion of the body;

4834 (ii) prevent or correct a physical deformity or physical malfunction; or

4835 (iii) support a weak or deformed portion of the body.

4836 (b) "Prosthetic device" includes:

4837 (i) parts used in the repairs or renovation of a prosthetic device;

4838 (ii) replacement parts for a prosthetic device;

4839 (iii) a dental prosthesis; or

4840 (iv) a hearing aid.

4841 (c) "Prosthetic device" does not include:

4842 (i) corrective eyeglasses; or

4843 (ii) contact lenses.

4844 (97) (a) "Protective equipment" means an item:

4845 (i) for human wear; and

- 4846 (ii) that is:
- 4847 (A) designed as protection:
- 4848 (I) to the wearer against injury or disease; or
- 4849 (II) against damage or injury of other persons or property; and
- 4850 (B) not suitable for general use.
- 4851 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4852 commission shall make rules:
- 4853 (i) listing the items that constitute "protective equipment"; and
- 4854 (ii) that are consistent with the list of items that constitute "protective equipment"
- 4855 under the agreement.
- 4856 (98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 4857 printed matter, other than a photocopy:
- 4858 (i) regardless of:
- 4859 (A) characteristics;
- 4860 (B) copyright;
- 4861 (C) form;
- 4862 (D) format;
- 4863 (E) method of reproduction; or
- 4864 (F) source; and
- 4865 (ii) made available in printed or electronic format.
- 4866 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 4867 commission may by rule define the term "photocopy."
- 4868 (99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 4869 (i) valued in money; and
- 4870 (ii) for which tangible personal property, a product transferred electronically, or
- 4871 services are:
- 4872 (A) sold;
- 4873 (B) leased; or

- 4874 (C) rented.
- 4875 (b) "Purchase price" and "sales price" include:
- 4876 (i) the seller's cost of the tangible personal property, a product transferred
- 4877 electronically, or services sold;
- 4878 (ii) expenses of the seller, including:
- 4879 (A) the cost of materials used;
- 4880 (B) a labor cost;
- 4881 (C) a service cost;
- 4882 (D) interest;
- 4883 (E) a loss;
- 4884 (F) the cost of transportation to the seller; or
- 4885 (G) a tax imposed on the seller;
- 4886 (iii) a charge by the seller for any service necessary to complete the sale; or
- 4887 (iv) consideration a seller receives from a person other than the purchaser if:
- 4888 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 4889 and
- 4890 (II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a
- 4891 price reduction or discount on the sale;
- 4892 (B) the seller has an obligation to pass the price reduction or discount through to the
- 4893 purchaser;
- 4894 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 4895 the seller at the time of the sale to the purchaser; and
- 4896 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 4897 seller to claim a price reduction or discount; and
- 4898 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 4899 coupon, or other documentation with the understanding that the person other than the seller
- 4900 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 4901 (II) the purchaser identifies that purchaser to the seller as a member of a group or

4902 organization allowed a price reduction or discount, except that a preferred customer card that is
4903 available to any patron of a seller does not constitute membership in a group or organization
4904 allowed a price reduction or discount; or

4905 (III) the price reduction or discount is identified as a third party price reduction or
4906 discount on the:

4907 (Aa) invoice the purchaser receives; or

4908 (Bb) certificate, coupon, or other documentation the purchaser presents.

4909 (c) "Purchase price" and "sales price" do not include:

4910 (i) a discount:

4911 (A) in a form including:

4912 (I) cash;

4913 (II) term; or

4914 (III) coupon;

4915 (B) that is allowed by a seller;

4916 (C) taken by a purchaser on a sale; and

4917 (D) that is not reimbursed by a third party; or

4918 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), the following if separately

4919 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of

4920 sale or later, as demonstrated by the books and records the seller keeps at the time of the

4921 transaction in the regular course of business, including books and records the seller keeps at the

4922 time of the transaction in the regular course of business for nontax purposes, by a

4923 preponderance of the facts and circumstances at the time of the transaction, and by the

4924 understanding of all of the parties to the transaction:

4925 (A) the following from credit extended on the sale of tangible personal property or
4926 services:

4927 (I) a carrying charge;

4928 (II) a financing charge; or

4929 (III) an interest charge;

- 4930 (B) a delivery charge;
- 4931 (C) an installation charge;
- 4932 (D) a manufacturer rebate on a motor vehicle; or
- 4933 (E) a tax or fee legally imposed directly on the consumer.
- 4934 (100) "Purchaser" means a person to whom:
 - 4935 (a) a sale of tangible personal property is made;
 - 4936 (b) a product is transferred electronically; or
 - 4937 (c) a service is furnished.
- 4938 (101) "Qualifying enterprise data center" means an establishment that will:
 - 4939 (a) own and operate a data center facility that will house a group of networked server
 - 4940 computers in one physical location in order to centralize the dissemination, management, and
 - 4941 storage of data and information;
 - 4942 (b) be located in the state;
 - 4943 (c) be a new operation constructed on or after July 1, 2016;
 - 4944 (d) consist of one or more buildings that total 150,000 or more square feet;
 - 4945 (e) be owned or leased by:
 - 4946 (i) the establishment; or
 - 4947 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 4948 establishment; and
 - 4949 (f) be located on one or more parcels of land that are owned or leased by:
 - 4950 (i) the establishment; or
 - 4951 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 4952 establishment.
 - 4953 (102) "Regularly rented" means:
 - 4954 (a) rented to a guest for value three or more times during a calendar year; or
 - 4955 (b) advertised or held out to the public as a place that is regularly rented to guests for
 - 4956 value.
 - 4957 (103) "Rental" means the same as that term is defined in Subsection (59).

4958 (104) (a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible
4959 personal property" means:

4960 (i) a repair or renovation of tangible personal property that is not permanently attached
4961 to real property; or

4962 (ii) attaching tangible personal property or a product transferred electronically to other
4963 tangible personal property or detaching tangible personal property or a product transferred
4964 electronically from other tangible personal property if:

4965 (A) the other tangible personal property to which the tangible personal property or
4966 product transferred electronically is attached or from which the tangible personal property or
4967 product transferred electronically is detached is not permanently attached to real property; and

4968 (B) the attachment of tangible personal property or a product transferred electronically
4969 to other tangible personal property or detachment of tangible personal property or a product
4970 transferred electronically from other tangible personal property is made in conjunction with a
4971 repair or replacement of tangible personal property or a product transferred electronically.

4972 (b) "Repairs or renovations of tangible personal property" does not include:

4973 (i) attaching prewritten computer software to other tangible personal property if the
4974 other tangible personal property to which the prewritten computer software is attached is not
4975 permanently attached to real property; or

4976 (ii) detaching prewritten computer software from other tangible personal property if the
4977 other tangible personal property from which the prewritten computer software is detached is
4978 not permanently attached to real property.

4979 (105) "Research and development" means the process of inquiry or experimentation
4980 aimed at the discovery of facts, devices, technologies, or applications and the process of
4981 preparing those devices, technologies, or applications for marketing.

4982 (106) (a) "Residential telecommunications services" means a telecommunications
4983 service or an ancillary service that is provided to an individual for personal use:

4984 (i) at a residential address; or

4985 (ii) at an institution, including a nursing home or a school, if the telecommunications

4986 service or ancillary service is provided to and paid for by the individual residing at the
4987 institution rather than the institution.

4988 (b) For purposes of Subsection (106)(a)(i), a residential address includes an:

4989 (i) apartment; or

4990 (ii) other individual dwelling unit.

4991 (107) "Residential use" means the use in or around a home, apartment building,
4992 sleeping quarters, and similar facilities or accommodations.

4993 (108) (a) "Retailer" means any person engaged in a regularly organized business in
4994 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
4995 who is selling to the user or consumer and not for resale.

4996 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
4997 engaged in the business of selling to users or consumers within the state.

4998 (109) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
4999 than:

5000 (a) resale;

5001 (b) sublease; or

5002 (c) subrent.

5003 (110) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
5004 otherwise, in any manner, of tangible personal property or any other taxable transaction under
5005 Subsection 59-12-103(1), for consideration.

5006 (b) "Sale" includes:

5007 (i) installment and credit sales;

5008 (ii) any closed transaction constituting a sale;

5009 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
5010 chapter;

5011 (iv) any transaction if the possession of property is transferred but the seller retains the
5012 title as security for the payment of the price; and

5013 (v) any transaction under which right to possession, operation, or use of any article of

5014 tangible personal property is granted under a lease or contract and the transfer of possession
5015 would be taxable if an outright sale were made.

5016 (111) "Sale at retail" means the same as that term is defined in Subsection (109).

5017 (112) "Sale-leaseback transaction" means a transaction by which title to tangible
5018 personal property or a product transferred electronically that is subject to a tax under this
5019 chapter is transferred:

5020 (a) by a purchaser-lessee;

5021 (b) to a lessor;

5022 (c) for consideration; and

5023 (d) if:

5024 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
5025 of the tangible personal property or product transferred electronically;

5026 (ii) the sale of the tangible personal property or product transferred electronically to the
5027 lessor is intended as a form of financing:

5028 (A) for the tangible personal property or product transferred electronically; and

5029 (B) to the purchaser-lessee; and

5030 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
5031 is required to:

5032 (A) capitalize the tangible personal property or product transferred electronically for
5033 financial reporting purposes; and

5034 (B) account for the lease payments as payments made under a financing arrangement.

5035 (113) "Sales price" means the same as that term is defined in Subsection (99).

5036 (114) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
5037 amounts charged by a school:

5038 (i) sales that are directly related to the school's educational functions or activities

5039 including:

5040 (A) the sale of:

5041 (I) textbooks;

- 5042 (II) textbook fees;
- 5043 (III) laboratory fees;
- 5044 (IV) laboratory supplies; or
- 5045 (V) safety equipment;
- 5046 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
- 5047 that:
- 5048 (I) a student is specifically required to wear as a condition of participation in a
- 5049 school-related event or school-related activity; and
- 5050 (II) is not readily adaptable to general or continued usage to the extent that it takes the
- 5051 place of ordinary clothing;
- 5052 (C) sales of the following if the net or gross revenues generated by the sales are
- 5053 deposited into a school district fund or school fund dedicated to school meals:
- 5054 (I) food and food ingredients; or
- 5055 (II) prepared food; or
- 5056 (D) transportation charges for official school activities; or
- 5057 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 5058 event or school-related activity.
- 5059 (b) "Sales relating to schools" does not include:
- 5060 (i) bookstore sales of items that are not educational materials or supplies;
- 5061 (ii) except as provided in Subsection (114)(a)(i)(B):
- 5062 (A) clothing;
- 5063 (B) clothing accessories or equipment;
- 5064 (C) protective equipment; or
- 5065 (D) sports or recreational equipment; or
- 5066 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 5067 event or school-related activity if the amounts paid or charged are passed through to a person:
- 5068 (A) other than a:
- 5069 (I) school;

5070 (II) nonprofit organization authorized by a school board or a governing body of a
5071 private school to organize and direct a competitive secondary school activity; or

5072 (III) nonprofit association authorized by a school board or a governing body of a
5073 private school to organize and direct a competitive secondary school activity; and

5074 (B) that is required to collect sales and use taxes under this chapter.

5075 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5076 commission may make rules defining the term "passed through."

5077 (115) For purposes of this section and Section 59-12-104, "school":

5078 (a) means:

5079 (i) an elementary school or a secondary school that:

5080 (A) is a:

5081 (I) public school; or

5082 (II) private school; and

5083 (B) provides instruction for one or more grades kindergarten through 12; or

5084 (ii) a public school district; and

5085 (b) includes the Electronic High School as defined in Section 53A-15-1002.

5086 (116) "Seller" means a person that makes a sale, lease, or rental of:

5087 (a) tangible personal property;

5088 (b) a product transferred electronically; or

5089 (c) a service.

5090 (117) (a) "Semiconductor fabricating, processing, research, or development materials"

5091 means tangible personal property or a product transferred electronically if the tangible personal
5092 property or product transferred electronically is:

5093 (i) used primarily in the process of:

5094 (A) (I) manufacturing a semiconductor;

5095 (II) fabricating a semiconductor; or

5096 (III) research or development of a:

5097 (Aa) semiconductor; or

- 5098 (Bb) semiconductor manufacturing process; or
- 5099 (B) maintaining an environment suitable for a semiconductor; or
- 5100 (ii) consumed primarily in the process of:
- 5101 (A) (I) manufacturing a semiconductor;
- 5102 (II) fabricating a semiconductor; or
- 5103 (III) research or development of a:
- 5104 (Aa) semiconductor; or
- 5105 (Bb) semiconductor manufacturing process; or
- 5106 (B) maintaining an environment suitable for a semiconductor.
- 5107 (b) "Semiconductor fabricating, processing, research, or development materials"
- 5108 includes:
- 5109 (i) parts used in the repairs or renovations of tangible personal property or a product
- 5110 transferred electronically described in Subsection (117)(a); or
- 5111 (ii) a chemical, catalyst, or other material used to:
- 5112 (A) produce or induce in a semiconductor a:
- 5113 (I) chemical change; or
- 5114 (II) physical change;
- 5115 (B) remove impurities from a semiconductor; or
- 5116 (C) improve the marketable condition of a semiconductor.
- 5117 (118) "Senior citizen center" means a facility having the primary purpose of providing
- 5118 services to the aged as defined in Section [62A-3-101](#).
- 5119 (119) (a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable"
- 5120 means tangible personal property that:
- 5121 (i) a business that provides accommodations and services described in Subsection
- 5122 [59-12-103\(1\)\(i\)](#) purchases as part of a transaction to provide the accommodations and services
- 5123 to a purchaser;
- 5124 (ii) is intended to be consumed by the purchaser; and
- 5125 (iii) is:

- 5126 (A) included in the purchase price of the accommodations and services; and
5127 (B) not separately stated on an invoice, bill of sale, or other similar document provided
5128 to the purchaser.
- 5129 (b) "Short-term lodging consumable" includes:
- 5130 (i) a beverage;
 - 5131 (ii) a brush or comb;
 - 5132 (iii) a cosmetic;
 - 5133 (iv) a hair care product;
 - 5134 (v) lotion;
 - 5135 (vi) a magazine;
 - 5136 (vii) makeup;
 - 5137 (viii) a meal;
 - 5138 (ix) mouthwash;
 - 5139 (x) nail polish remover;
 - 5140 (xi) a newspaper;
 - 5141 (xii) a notepad;
 - 5142 (xiii) a pen;
 - 5143 (xiv) a pencil;
 - 5144 (xv) a razor;
 - 5145 (xvi) saline solution;
 - 5146 (xvii) a sewing kit;
 - 5147 (xviii) shaving cream;
 - 5148 (xix) a shoe shine kit;
 - 5149 (xx) a shower cap;
 - 5150 (xxi) a snack item;
 - 5151 (xxii) soap;
 - 5152 (xxiii) toilet paper;
 - 5153 (xxiv) a toothbrush;

5154 (xxv) toothpaste; or
5155 (xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may
5156 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
5157 Rulemaking Act.

5158 (c) "Short-term lodging consumable" does not include:
5159 (i) tangible personal property that is cleaned or washed to allow the tangible personal
5160 property to be reused; or
5161 (ii) a product transferred electronically.

5162 (120) "Simplified electronic return" means the electronic return:
5163 (a) described in Section 318(C) of the agreement; and
5164 (b) approved by the governing board of the agreement.

5165 (121) "Solar energy" means the sun used as the sole source of energy for producing
5166 electricity.

5167 (122) (a) "Sports or recreational equipment" means an item:
5168 (i) designed for human use; and
5169 (ii) that is:
5170 (A) worn in conjunction with:
5171 (I) an athletic activity; or
5172 (II) a recreational activity; and
5173 (B) not suitable for general use.

5174 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5175 commission shall make rules:
5176 (i) listing the items that constitute "sports or recreational equipment"; and
5177 (ii) that are consistent with the list of items that constitute "sports or recreational
5178 equipment" under the agreement.

5179 (123) "State" means the state of Utah, its departments, and agencies.

5180 (124) "Storage" means any keeping or retention of tangible personal property or any
5181 other taxable transaction under Subsection [59-12-103\(1\)](#), in this state for any purpose except

5182 sale in the regular course of business.

5183 (125) (a) Except as provided in Subsection (125)(d) or (e), "tangible personal property"

5184 means personal property that:

5185 (i) may be:

5186 (A) seen;

5187 (B) weighed;

5188 (C) measured;

5189 (D) felt; or

5190 (E) touched; or

5191 (ii) is in any manner perceptible to the senses.

5192 (b) "Tangible personal property" includes:

5193 (i) electricity;

5194 (ii) water;

5195 (iii) gas;

5196 (iv) steam; or

5197 (v) prewritten computer software, regardless of the manner in which the prewritten

5198 computer software is transferred.

5199 (c) "Tangible personal property" includes the following regardless of whether the item

5200 is attached to real property:

5201 (i) a dishwasher;

5202 (ii) a dryer;

5203 (iii) a freezer;

5204 (iv) a microwave;

5205 (v) a refrigerator;

5206 (vi) a stove;

5207 (vii) a washer; or

5208 (viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the

5209 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

5210 Rulemaking Act.

5211 (d) "Tangible personal property" does not include a product that is transferred
5212 electronically.

5213 (e) "Tangible personal property" does not include the following if attached to real
5214 property, regardless of whether the attachment to real property is only through a line that
5215 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
5216 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
5217 Rulemaking Act:

- 5218 (i) a hot water heater;
- 5219 (ii) a water filtration system; or
- 5220 (iii) a water softener system.

5221 (126) (a) "Telecommunications enabling or facilitating equipment, machinery, or
5222 software" means an item listed in Subsection (126)(b) if that item is purchased or leased
5223 primarily to enable or facilitate one or more of the following to function:

- 5224 (i) telecommunications switching or routing equipment, machinery, or software; or
- 5225 (ii) telecommunications transmission equipment, machinery, or software.

5226 (b) The following apply to Subsection (126)(a):

- 5227 (i) a pole;
- 5228 (ii) software;
- 5229 (iii) a supplementary power supply;
- 5230 (iv) temperature or environmental equipment or machinery;
- 5231 (v) test equipment;
- 5232 (vi) a tower; or
- 5233 (vii) equipment, machinery, or software that functions similarly to an item listed in

5234 Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in
5235 accordance with Subsection (126)(c).

5236 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5237 commission may by rule define what constitutes equipment, machinery, or software that

5238 functions similarly to an item listed in Subsections (126)(b)(i) through (vi).

5239 (127) "Telecommunications equipment, machinery, or software required for 911
5240 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
5241 Sec. 20.18.

5242 (128) "Telecommunications maintenance or repair equipment, machinery, or software"
5243 means equipment, machinery, or software purchased or leased primarily to maintain or repair
5244 one or more of the following, regardless of whether the equipment, machinery, or software is
5245 purchased or leased as a spare part or as an upgrade or modification to one or more of the
5246 following:

5247 (a) telecommunications enabling or facilitating equipment, machinery, or software;

5248 (b) telecommunications switching or routing equipment, machinery, or software; or

5249 (c) telecommunications transmission equipment, machinery, or software.

5250 (129) (a) "Telecommunications service" means the electronic conveyance, routing, or
5251 transmission of audio, data, video, voice, or any other information or signal to a point, or
5252 among or between points.

5253 (b) "Telecommunications service" includes:

5254 (i) an electronic conveyance, routing, or transmission with respect to which a computer
5255 processing application is used to act:

5256 (A) on the code, form, or protocol of the content;

5257 (B) for the purpose of electronic conveyance, routing, or transmission; and

5258 (C) regardless of whether the service:

5259 (I) is referred to as voice over Internet protocol service; or

5260 (II) is classified by the Federal Communications Commission as enhanced or value
5261 added;

5262 (ii) an 800 service;

5263 (iii) a 900 service;

5264 (iv) a fixed wireless service;

5265 (v) a mobile wireless service;

- 5266 (vi) a postpaid calling service;
- 5267 (vii) a prepaid calling service;
- 5268 (viii) a prepaid wireless calling service; or
- 5269 (ix) a private communications service.
- 5270 (c) "Telecommunications service" does not include:
- 5271 (i) advertising, including directory advertising;
- 5272 (ii) an ancillary service;
- 5273 (iii) a billing and collection service provided to a third party;
- 5274 (iv) a data processing and information service if:
- 5275 (A) the data processing and information service allows data to be:
- 5276 (I) (Aa) acquired;
- 5277 (Bb) generated;
- 5278 (Cc) processed;
- 5279 (Dd) retrieved; or
- 5280 (Ee) stored; and
- 5281 (II) delivered by an electronic transmission to a purchaser; and
- 5282 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 5283 or information;
- 5284 (v) installation or maintenance of the following on a customer's premises:
- 5285 (A) equipment; or
- 5286 (B) wiring;
- 5287 (vi) Internet access service;
- 5288 (vii) a paging service;
- 5289 (viii) a product transferred electronically, including:
- 5290 (A) music;
- 5291 (B) reading material;
- 5292 (C) a ring tone;
- 5293 (D) software; or

- 5294 (E) video;
- 5295 (ix) a radio and television audio and video programming service:
- 5296 (A) regardless of the medium; and
- 5297 (B) including:
 - 5298 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 5299 programming service by a programming service provider;
 - 5300 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 5301 (III) audio and video programming services delivered by a commercial mobile radio
 - 5302 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 5303 (x) a value-added nonvoice data service; or
 - 5304 (xi) tangible personal property.
- 5305 (130) (a) "Telecommunications service provider" means a person that:
 - 5306 (i) owns, controls, operates, or manages a telecommunications service; and
 - 5307 (ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or
 - 5308 resale to any person of the telecommunications service.
- 5309 (b) A person described in Subsection (130)(a) is a telecommunications service provider
- 5310 whether or not the Public Service Commission of Utah regulates:
 - 5311 (i) that person; or
 - 5312 (ii) the telecommunications service that the person owns, controls, operates, or
 - 5313 manages.
- 5314 (131) (a) "Telecommunications switching or routing equipment, machinery, or
- 5315 software" means an item listed in Subsection (131)(b) if that item is purchased or leased
- 5316 primarily for switching or routing:
 - 5317 (i) an ancillary service;
 - 5318 (ii) data communications;
 - 5319 (iii) voice communications; or
 - 5320 (iv) telecommunications service.
- 5321 (b) The following apply to Subsection (131)(a):

- 5322 (i) a bridge;
- 5323 (ii) a computer;
- 5324 (iii) a cross connect;
- 5325 (iv) a modem;
- 5326 (v) a multiplexer;
- 5327 (vi) plug in circuitry;
- 5328 (vii) a router;
- 5329 (viii) software;
- 5330 (ix) a switch; or
- 5331 (x) equipment, machinery, or software that functions similarly to an item listed in
- 5332 Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in
- 5333 accordance with Subsection (131)(c).

5334 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5335 commission may by rule define what constitutes equipment, machinery, or software that
5336 functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

5337 (132) (a) "Telecommunications transmission equipment, machinery, or software"
5338 means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for
5339 sending, receiving, or transporting:

- 5340 (i) an ancillary service;
- 5341 (ii) data communications;
- 5342 (iii) voice communications; or
- 5343 (iv) telecommunications service.

5344 (b) The following apply to Subsection (132)(a):

- 5345 (i) an amplifier;
- 5346 (ii) a cable;
- 5347 (iii) a closure;
- 5348 (iv) a conduit;
- 5349 (v) a controller;

- 5350 (vi) a duplexer;
- 5351 (vii) a filter;
- 5352 (viii) an input device;
- 5353 (ix) an input/output device;
- 5354 (x) an insulator;
- 5355 (xi) microwave machinery or equipment;
- 5356 (xii) an oscillator;
- 5357 (xiii) an output device;
- 5358 (xiv) a pedestal;
- 5359 (xv) a power converter;
- 5360 (xvi) a power supply;
- 5361 (xvii) a radio channel;
- 5362 (xviii) a radio receiver;
- 5363 (xix) a radio transmitter;
- 5364 (xx) a repeater;
- 5365 (xxi) software;
- 5366 (xxii) a terminal;
- 5367 (xxiii) a timing unit;
- 5368 (xxiv) a transformer;
- 5369 (xxv) a wire; or

5370 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
5371 Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in
5372 accordance with Subsection (132)(c).

5373 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5374 commission may by rule define what constitutes equipment, machinery, or software that
5375 functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

5376 (133) (a) "Textbook for a higher education course" means a textbook or other printed
5377 material that is required for a course:

- 5378 (i) offered by an institution of higher education; and
- 5379 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 5380 (b) "Textbook for a higher education course" includes a textbook in electronic format.

5381 (134) "Tobacco" means:

- 5382 (a) a cigarette;
- 5383 (b) a cigar;
- 5384 (c) chewing tobacco;
- 5385 (d) pipe tobacco; or
- 5386 (e) any other item that contains tobacco.

5387 (135) "Unassisted amusement device" means an amusement device, skill device, or
5388 ride device that is started and stopped by the purchaser or renter of the right to use or operate
5389 the amusement device, skill device, or ride device.

5390 (136) (a) "Use" means the exercise of any right or power over tangible personal
5391 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),
5392 incident to the ownership or the leasing of that tangible personal property, product transferred
5393 electronically, or service.

5394 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
5395 property, a product transferred electronically, or a service in the regular course of business and
5396 held for resale.

5397 (137) "Value-added nonvoice data service" means a service:

5398 (a) that otherwise meets the definition of a telecommunications service except that a
5399 computer processing application is used to act primarily for a purpose other than conveyance,
5400 routing, or transmission; and

5401 (b) with respect to which a computer processing application is used to act on data or
5402 information:

- 5403 (i) code;
- 5404 (ii) content;
- 5405 (iii) form; or

- 5406 (iv) protocol.
- 5407 (138) (a) Subject to Subsection (138)(b), "vehicle" means the following that are
5408 required to be titled, registered, or titled and registered:
- 5409 (i) an aircraft as defined in Section 72-10-102;
 - 5410 (ii) a vehicle as defined in Section 41-1a-102;
 - 5411 (iii) an off-highway vehicle as defined in Section 41-22-2; or
 - 5412 (iv) a vessel as defined in Section 41-1a-102.
- 5413 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
- 5414 (i) a vehicle described in Subsection (138)(a); or
 - 5415 (ii) (A) a locomotive;
 - 5416 (B) a freight car;
 - 5417 (C) railroad work equipment; or
 - 5418 (D) other railroad rolling stock.
- 5419 (139) "Vehicle dealer" means a person engaged in the business of buying, selling, or
5420 exchanging a vehicle as defined in Subsection (138).
- 5421 (140) (a) "Vertical service" means an ancillary service that:
- 5422 (i) is offered in connection with one or more telecommunications services; and
 - 5423 (ii) offers an advanced calling feature that allows a customer to:
- 5424 (A) identify a caller; and
 - 5425 (B) manage multiple calls and call connections.
- 5426 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
5427 conference bridging service.
- 5428 (141) (a) "Voice mail service" means an ancillary service that enables a customer to
5429 receive, send, or store a recorded message.
- 5430 (b) "Voice mail service" does not include a vertical service that a customer is required
5431 to have in order to utilize a voice mail service.
- 5432 (142) (a) Except as provided in Subsection (142)(b), "waste energy facility" means a
5433 facility that generates electricity:

5434 (i) using as the primary source of energy waste materials that would be placed in a
5435 landfill or refuse pit if it were not used to generate electricity, including:

5436 (A) tires;

5437 (B) waste coal;

5438 (C) oil shale; or

5439 (D) municipal solid waste; and

5440 (ii) in amounts greater than actually required for the operation of the facility.

5441 (b) "Waste energy facility" does not include a facility that incinerates:

5442 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

5443 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

5444 (143) "Watercraft" means a vessel as defined in Section [73-18-2](#).

5445 (144) "Wind energy" means wind used as the sole source of energy to produce
5446 electricity.

5447 (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
5448 location by the United States Postal Service.

5449 Section 56. Section **59-12-104** is amended to read:

5450 **59-12-104. Exemptions.**

5451 Exemptions from the taxes imposed by this chapter are as follows:

5452 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
5453 under Chapter 13, Motor and Special Fuel Tax Act;

5454 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
5455 subdivisions; however, this exemption does not apply to sales of:

5456 (a) construction materials except:

5457 (i) construction materials purchased by or on behalf of institutions of the public
5458 education system as defined in Utah Constitution, Article X, Section 2, provided the
5459 construction materials are clearly identified and segregated and installed or converted to real
5460 property which is owned by institutions of the public education system; and

5461 (ii) construction materials purchased by the state, its institutions, or its political

5462 subdivisions which are installed or converted to real property by employees of the state, its
5463 institutions, or its political subdivisions; or

5464 (b) tangible personal property in connection with the construction, operation,
5465 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
5466 providing additional project capacity, as defined in Section 11-13-103;

5467 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

5468 (i) the proceeds of each sale do not exceed \$1; and

5469 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
5470 the cost of the item described in Subsection (3)(b) as goods consumed; and

5471 (b) Subsection (3)(a) applies to:

5472 (i) food and food ingredients; or

5473 (ii) prepared food;

5474 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

5475 (i) alcoholic beverages;

5476 (ii) food and food ingredients; or

5477 (iii) prepared food;

5478 (b) sales of tangible personal property or a product transferred electronically:

5479 (i) to a passenger;

5480 (ii) by a commercial airline carrier; and

5481 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

5482 (c) services related to Subsection (4)(a) or (b);

5483 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
5484 and equipment:

5485 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
5486 North American Industry Classification System of the federal Executive Office of the
5487 President, Office of Management and Budget; and

5488 (II) for:

5489 (Aa) installation in an aircraft, including services relating to the installation of parts or

5490 equipment in the aircraft;

5491 (Bb) renovation of an aircraft; or

5492 (Cc) repair of an aircraft; or

5493 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

5494 commerce; or

5495 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

5496 aircraft operated by a common carrier in interstate or foreign commerce; and

5497 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

5498 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

5499 refund:

5500 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

5501 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

5502 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

5503 the sale prior to filing for the refund;

5504 (iv) for sales and use taxes paid under this chapter on the sale;

5505 (v) in accordance with Section 59-1-1410; and

5506 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

5507 the person files for the refund on or before September 30, 2011;

5508 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

5509 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

5510 exhibitor, distributor, or commercial television or radio broadcaster;

5511 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of

5512 cleaning or washing of tangible personal property if the cleaning or washing of the tangible

5513 personal property is not assisted cleaning or washing of tangible personal property;

5514 (b) if a seller that sells at the same business location assisted cleaning or washing of

5515 tangible personal property and cleaning or washing of tangible personal property that is not

5516 assisted cleaning or washing of tangible personal property, the exemption described in

5517 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning

5518 or washing of the tangible personal property; and

5519 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
5520 Utah Administrative Rulemaking Act, the commission may make rules:

5521 (i) governing the circumstances under which sales are at the same business location;

5522 and

5523 (ii) establishing the procedures and requirements for a seller to separately account for
5524 sales of assisted cleaning or washing of tangible personal property;

5525 (8) sales made to or by religious or charitable institutions in the conduct of their regular
5526 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
5527 fulfilled;

5528 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
5529 this state if the vehicle is:

5530 (a) not registered in this state; and

5531 (b) (i) not used in this state; or

5532 (ii) used in this state:

5533 (A) if the vehicle is not used to conduct business, for a time period that does not
5534 exceed the longer of:

5535 (I) 30 days in any calendar year; or

5536 (II) the time period necessary to transport the vehicle to the borders of this state; or

5537 (B) if the vehicle is used to conduct business, for the time period necessary to transport
5538 the vehicle to the borders of this state;

5539 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

5540 (i) the item is intended for human use; and

5541 (ii) (A) a prescription was issued for the item; or

5542 (B) the item was purchased by a hospital or other medical facility; and

5543 (b) (i) Subsection (10)(a) applies to:

5544 (A) a drug;

5545 (B) a syringe; or

5546 (C) a stoma supply; and
5547 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5548 commission may by rule define the terms:
5549 (A) "syringe"; or
5550 (B) "stoma supply";
5551 (11) purchases or leases exempt under Section 19-12-201;
5552 (12) (a) sales of an item described in Subsection (12)(c) served by:
5553 (i) the following if the item described in Subsection (12)(c) is not available to the
5554 general public:
5555 (A) a church; or
5556 (B) a charitable institution;
5557 (ii) an institution of higher education if:
5558 (A) the item described in Subsection (12)(c) is not available to the general public; or
5559 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
5560 offered by the institution of higher education; or
5561 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
5562 (i) a medical facility; or
5563 (ii) a nursing facility; and
5564 (c) Subsections (12)(a) and (b) apply to:
5565 (i) food and food ingredients;
5566 (ii) prepared food; or
5567 (iii) alcoholic beverages;
5568 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
5569 or a product transferred electronically by a person:
5570 (i) regardless of the number of transactions involving the sale of that tangible personal
5571 property or product transferred electronically by that person; and
5572 (ii) not regularly engaged in the business of selling that type of tangible personal
5573 property or product transferred electronically;

5574 (b) this Subsection (13) does not apply if:

5575 (i) the sale is one of a series of sales of a character to indicate that the person is

5576 regularly engaged in the business of selling that type of tangible personal property or product

5577 transferred electronically;

5578 (ii) the person holds that person out as regularly engaged in the business of selling that

5579 type of tangible personal property or product transferred electronically;

5580 (iii) the person sells an item of tangible personal property or product transferred

5581 electronically that the person purchased as a sale that is exempt under Subsection (25); or

5582 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

5583 this state in which case the tax is based upon:

5584 (A) the bill of sale or other written evidence of value of the vehicle or vessel being

5585 sold; or

5586 (B) in the absence of a bill of sale or other written evidence of value, the fair market

5587 value of the vehicle or vessel being sold at the time of the sale as determined by the

5588 commission; and

5589 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

5590 commission shall make rules establishing the circumstances under which:

5591 (i) a person is regularly engaged in the business of selling a type of tangible personal

5592 property or product transferred electronically;

5593 (ii) a sale of tangible personal property or a product transferred electronically is one of

5594 a series of sales of a character to indicate that a person is regularly engaged in the business of

5595 selling that type of tangible personal property or product transferred electronically; or

5596 (iii) a person holds that person out as regularly engaged in the business of selling a type

5597 of tangible personal property or product transferred electronically;

5598 (14) amounts paid or charged for a purchase or lease of machinery, equipment, or

5599 normal operating repair or replacement parts with an economic life of three or more years by:

5600 (a) a manufacturing facility, except as provided in Subsection (86), that:

5601 (i) is located in the state; and

5602 (ii) uses the machinery, equipment, or normal operating repair or replacement parts:
5603 (A) in the manufacturing process to manufacture an item sold as tangible personal
5604 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
5605 Utah Administrative Rulemaking Act; or
5606 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
5607 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5608 Administrative Rulemaking Act;
5609 (b) an establishment, as the commission defines that term in accordance with Title 63G,
5610 Chapter 3, Utah Administrative Rulemaking Act, that:
5611 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
5612 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
5613 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
5614 2002 North American Industry Classification System of the federal Executive Office of the
5615 President, Office of Management and Budget;
5616 (ii) is located in the state; and
5617 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in:
5618 (A) the production process to produce an item sold as tangible personal property, as the
5619 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
5620 Administrative Rulemaking Act;
5621 (B) research and development, as the commission may define that phrase in accordance
5622 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
5623 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
5624 produced from mining;
5625 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
5626 mining; or
5627 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
5628 (c) an establishment, as the commission defines that term in accordance with Title 63G,
5629 Chapter 3, Utah Administrative Rulemaking Act, that:

5630 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
5631 American Industry Classification System of the federal Executive Office of the President,
5632 Office of Management and Budget;

5633 (ii) is located in the state; and

5634 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in
5635 the operation of the web search portal;

5636 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

5637 (i) tooling;

5638 (ii) special tooling;

5639 (iii) support equipment;

5640 (iv) special test equipment; or

5641 (v) parts used in the repairs or renovations of tooling or equipment described in
5642 Subsections (15)(a)(i) through (iv); and

5643 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

5644 (i) the tooling, equipment, or parts are used or consumed exclusively in the
5645 performance of any aerospace or electronics industry contract with the United States
5646 government or any subcontract under that contract; and

5647 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
5648 title to the tooling, equipment, or parts is vested in the United States government as evidenced
5649 by:

5650 (A) a government identification tag placed on the tooling, equipment, or parts; or

5651 (B) listing on a government-approved property record if placing a government
5652 identification tag on the tooling, equipment, or parts is impractical;

5653 (16) sales of newspapers or newspaper subscriptions;

5654 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
5655 product transferred electronically traded in as full or part payment of the purchase price, except
5656 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
5657 trade-ins are limited to other vehicles only, and the tax is based upon:

5658 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
5659 vehicle being traded in; or

5660 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
5661 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
5662 commission; and

5663 (b) Subsection (17)(a) does not apply to the following items of tangible personal
5664 property or products transferred electronically traded in as full or part payment of the purchase
5665 price:

5666 (i) money;

5667 (ii) electricity;

5668 (iii) water;

5669 (iv) gas; or

5670 (v) steam;

5671 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
5672 or a product transferred electronically used or consumed primarily and directly in farming
5673 operations, regardless of whether the tangible personal property or product transferred
5674 electronically:

5675 (A) becomes part of real estate; or

5676 (B) is installed by a:

5677 (I) farmer;

5678 (II) contractor; or

5679 (III) subcontractor; or

5680 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
5681 product transferred electronically if the tangible personal property or product transferred
5682 electronically is exempt under Subsection (18)(a)(i); and

5683 (b) amounts paid or charged for the following are subject to the taxes imposed by this
5684 chapter:

5685 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

- 5686 incidental to farming:
- 5687 (I) machinery;
- 5688 (II) equipment;
- 5689 (III) materials; or
- 5690 (IV) supplies; and
- 5691 (B) tangible personal property that is considered to be used in a manner that is
- 5692 incidental to farming includes:
- 5693 (I) hand tools; or
- 5694 (II) maintenance and janitorial equipment and supplies;
- 5695 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 5696 transferred electronically if the tangible personal property or product transferred electronically
- 5697 is used in an activity other than farming; and
- 5698 (B) tangible personal property or a product transferred electronically that is considered
- 5699 to be used in an activity other than farming includes:
- 5700 (I) office equipment and supplies; or
- 5701 (II) equipment and supplies used in:
- 5702 (Aa) the sale or distribution of farm products;
- 5703 (Bb) research; or
- 5704 (Cc) transportation; or
- 5705 (iii) a vehicle required to be registered by the laws of this state during the period
- 5706 ending two years after the date of the vehicle's purchase;
- 5707 (19) sales of hay;
- 5708 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 5709 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 5710 garden, farm, or other agricultural produce is sold by:
- 5711 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 5712 agricultural produce;
- 5713 (b) an employee of the producer described in Subsection (20)(a); or

5714 (c) a member of the immediate family of the producer described in Subsection (20)(a);
5715 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
5716 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

5717 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
5718 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
5719 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
5720 manufacturer, processor, wholesaler, or retailer;

5721 (23) a product stored in the state for resale;

5722 (24) (a) purchases of a product if:

5723 (i) the product is:

5724 (A) purchased outside of this state;

5725 (B) brought into this state:

5726 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
5727 (II) by a nonresident person who is not living or working in this state at the time of the
5728 purchase;

5729 (C) used for the personal use or enjoyment of the nonresident person described in
5730 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

5731 (D) not used in conducting business in this state; and

5732 (ii) for:

5733 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
5734 the product for a purpose for which the product is designed occurs outside of this state;

5735 (B) a boat, the boat is registered outside of this state; or

5736 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
5737 outside of this state;

5738 (b) the exemption provided for in Subsection (24)(a) does not apply to:

5739 (i) a lease or rental of a product; or

5740 (ii) a sale of a vehicle exempt under Subsection (33); and

5741 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

5742 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
5743 following:

5744 (i) conducting business in this state if that phrase has the same meaning in this
5745 Subsection (24) as in Subsection (63);

5746 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
5747 as in Subsection (63); or

5748 (iii) a purpose for which a product is designed if that phrase has the same meaning in
5749 this Subsection (24) as in Subsection (63);

5750 (25) a product purchased for resale in this state, in the regular course of business, either
5751 in its original form or as an ingredient or component part of a manufactured or compounded
5752 product;

5753 (26) a product upon which a sales or use tax was paid to some other state, or one of its
5754 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
5755 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
5756 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
5757 Act;

5758 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
5759 person for use in compounding a service taxable under the subsections;

5760 (28) purchases made in accordance with the special supplemental nutrition program for
5761 women, infants, and children established in 42 U.S.C. Sec. 1786;

5762 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
5763 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
5764 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
5765 the President, Office of Management and Budget;

5766 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
5767 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

5768 (a) not registered in this state; and

5769 (b) (i) not used in this state; or

- 5770 (ii) used in this state:
- 5771 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
- 5772 time period that does not exceed the longer of:
- 5773 (I) 30 days in any calendar year; or
- 5774 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 5775 the borders of this state; or
- 5776 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 5777 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 5778 state;
- 5779 (31) sales of aircraft manufactured in Utah;
- 5780 (32) amounts paid for the purchase of telecommunications service for purposes of
- 5781 providing telecommunications service;
- 5782 (33) sales, leases, or uses of the following:
- 5783 (a) a vehicle by an authorized carrier; or
- 5784 (b) tangible personal property that is installed on a vehicle:
- 5785 (i) sold or leased to or used by an authorized carrier; and
- 5786 (ii) before the vehicle is placed in service for the first time;
- 5787 (34) (a) 45% of the sales price of any new manufactured home; and
- 5788 (b) 100% of the sales price of any used manufactured home;
- 5789 (35) sales relating to schools and fundraising sales;
- 5790 (36) sales or rentals of durable medical equipment if:
- 5791 (a) a person presents a prescription for the durable medical equipment; and
- 5792 (b) the durable medical equipment is used for home use only;
- 5793 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 5794 Section [72-11-102](#); and
- 5795 (b) the commission shall by rule determine the method for calculating sales exempt
- 5796 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 5797 (38) sales to a ski resort of:

- 5798 (a) snowmaking equipment;
- 5799 (b) ski slope grooming equipment;
- 5800 (c) passenger ropeways as defined in Section 72-11-102; or
- 5801 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 5802 described in Subsections (38)(a) through (c);
- 5803 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 5804 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 5805 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 5806 59-12-102;
- 5807 (b) if a seller that sells or rents at the same business location the right to use or operate
- 5808 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 5809 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 5810 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 5811 amusement, entertainment, or recreation for the assisted amusement devices; and
- 5812 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 5813 Utah Administrative Rulemaking Act, the commission may make rules:
- 5814 (i) governing the circumstances under which sales are at the same business location;
- 5815 and
- 5816 (ii) establishing the procedures and requirements for a seller to separately account for
- 5817 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 5818 assisted amusement devices;
- 5819 (41) (a) sales of photocopies by:
- 5820 (i) a governmental entity; or
- 5821 (ii) an entity within the state system of public education, including:
- 5822 (A) a school; or
- 5823 (B) the State Board of Education; or
- 5824 (b) sales of publications by a governmental entity;
- 5825 (42) amounts paid for admission to an athletic event at an institution of higher

5826 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
5827 20 U.S.C. Sec. 1681 et seq.;

5828 (43) (a) sales made to or by:

5829 (i) an area agency on aging; or

5830 (ii) a senior citizen center owned by a county, city, or town; or

5831 (b) sales made by a senior citizen center that contracts with an area agency on aging;

5832 (44) sales or leases of semiconductor fabricating, processing, research, or development
5833 materials regardless of whether the semiconductor fabricating, processing, research, or
5834 development materials:

5835 (a) actually come into contact with a semiconductor; or

5836 (b) ultimately become incorporated into real property;

5837 (45) an amount paid by or charged to a purchaser for accommodations and services
5838 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
5839 59-12-104.2;

5840 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
5841 sports event registration certificate in accordance with Section 41-3-306 for the event period
5842 specified on the temporary sports event registration certificate;

5843 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
5844 adopted by the Public Service Commission only for purchase of electricity produced from a
5845 new alternative energy source built after January 1, 2016, as designated in the tariff by the
5846 Public Service Commission;

5847 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
5848 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
5849 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
5850 customer would have paid absent the tariff;

5851 (48) sales or rentals of mobility enhancing equipment if a person presents a
5852 prescription for the mobility enhancing equipment;

5853 (49) sales of water in a:

- 5854 (a) pipe;
- 5855 (b) conduit;
- 5856 (c) ditch; or
- 5857 (d) reservoir;
- 5858 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 5859 or a foreign nation;
- 5860 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 5861 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 5862 (ii) has a gold, silver, or platinum content of 50% or more; and
- 5863 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 5864 (i) ingot;
- 5865 (ii) bar;
- 5866 (iii) medallion; or
- 5867 (iv) decorative coin;
- 5868 (52) amounts paid on a sale-leaseback transaction;
- 5869 (53) sales of a prosthetic device:
- 5870 (a) for use on or in a human; and
- 5871 (b) (i) for which a prescription is required; or
- 5872 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 5873 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 5874 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 5875 or equipment is primarily used in the production or postproduction of the following media for
- 5876 commercial distribution:
- 5877 (i) a motion picture;
- 5878 (ii) a television program;
- 5879 (iii) a movie made for television;
- 5880 (iv) a music video;
- 5881 (v) a commercial;

5882 (vi) a documentary; or
5883 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
5884 commission by administrative rule made in accordance with Subsection (54)(d); or
5885 (b) purchases, leases, or rentals of machinery or equipment by an establishment
5886 described in Subsection (54)(c) that is used for the production or postproduction of the
5887 following are subject to the taxes imposed by this chapter:
5888 (i) a live musical performance;
5889 (ii) a live news program; or
5890 (iii) a live sporting event;
5891 (c) the following establishments listed in the 1997 North American Industry
5892 Classification System of the federal Executive Office of the President, Office of Management
5893 and Budget, apply to Subsections (54)(a) and (b):
5894 (i) NAICS Code 512110; or
5895 (ii) NAICS Code 51219; and
5896 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5897 commission may by rule:
5898 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
5899 or
5900 (ii) define:
5901 (A) "commercial distribution";
5902 (B) "live musical performance";
5903 (C) "live news program"; or
5904 (D) "live sporting event";
5905 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
5906 on or before June 30, 2027, of tangible personal property that:
5907 (i) is leased or purchased for or by a facility that:
5908 (A) is an alternative energy electricity production facility;
5909 (B) is located in the state; and

5910 (C) (I) becomes operational on or after July 1, 2004; or
5911 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5912 2004, as a result of the use of the tangible personal property;
5913 (ii) has an economic life of five or more years; and
5914 (iii) is used to make the facility or the increase in capacity of the facility described in
5915 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
5916 transmission grid including:
5917 (A) a wind turbine;
5918 (B) generating equipment;
5919 (C) a control and monitoring system;
5920 (D) a power line;
5921 (E) substation equipment;
5922 (F) lighting;
5923 (G) fencing;
5924 (H) pipes; or
5925 (I) other equipment used for locating a power line or pole; and
5926 (b) this Subsection (55) does not apply to:
5927 (i) tangible personal property used in construction of:
5928 (A) a new alternative energy electricity production facility; or
5929 (B) the increase in the capacity of an alternative energy electricity production facility;
5930 (ii) contracted services required for construction and routine maintenance activities;
5931 and
5932 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5933 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
5934 acquired after:
5935 (A) the alternative energy electricity production facility described in Subsection
5936 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
5937 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

5938 in Subsection (55)(a)(iii);
5939 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
5940 on or before June 30, 2027, of tangible personal property that:
5941 (i) is leased or purchased for or by a facility that:
5942 (A) is a waste energy production facility;
5943 (B) is located in the state; and
5944 (C) (I) becomes operational on or after July 1, 2004; or
5945 (II) has its generation capacity increased by one or more megawatts on or after July 1,
5946 2004, as a result of the use of the tangible personal property;
5947 (ii) has an economic life of five or more years; and
5948 (iii) is used to make the facility or the increase in capacity of the facility described in
5949 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
5950 transmission grid including:
5951 (A) generating equipment;
5952 (B) a control and monitoring system;
5953 (C) a power line;
5954 (D) substation equipment;
5955 (E) lighting;
5956 (F) fencing;
5957 (G) pipes; or
5958 (H) other equipment used for locating a power line or pole; and
5959 (b) this Subsection (56) does not apply to:
5960 (i) tangible personal property used in construction of:
5961 (A) a new waste energy facility; or
5962 (B) the increase in the capacity of a waste energy facility;
5963 (ii) contracted services required for construction and routine maintenance activities;
5964 and
5965 (iii) unless the tangible personal property is used or acquired for an increase in capacity

5966 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

5967 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
5968 described in Subsection (56)(a)(iii); or

5969 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
5970 in Subsection (56)(a)(iii);

5971 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
5972 or before June 30, 2027, of tangible personal property that:

5973 (i) is leased or purchased for or by a facility that:

5974 (A) is located in the state;

5975 (B) produces fuel from alternative energy, including:

5976 (I) methanol; or

5977 (II) ethanol; and

5978 (C) (I) becomes operational on or after July 1, 2004; or

5979 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
5980 a result of the installation of the tangible personal property;

5981 (ii) has an economic life of five or more years; and

5982 (iii) is installed on the facility described in Subsection (57)(a)(i);

5983 (b) this Subsection (57) does not apply to:

5984 (i) tangible personal property used in construction of:

5985 (A) a new facility described in Subsection (57)(a)(i); or

5986 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

5987 (ii) contracted services required for construction and routine maintenance activities;

5988 and

5989 (iii) unless the tangible personal property is used or acquired for an increase in capacity
5990 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

5991 (A) the facility described in Subsection (57)(a)(i) is operational; or

5992 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

5993 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a

5994 product transferred electronically to a person within this state if that tangible personal property
5995 or product transferred electronically is subsequently shipped outside the state and incorporated
5996 pursuant to contract into and becomes a part of real property located outside of this state;

5997 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
5998 state or political entity to which the tangible personal property is shipped imposes a sales, use,
5999 gross receipts, or other similar transaction excise tax on the transaction against which the other
6000 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

6001 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
6002 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
6003 refund:

6004 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

6005 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
6006 which the sale is made;

6007 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
6008 sale prior to filing for the refund;

6009 (iv) for sales and use taxes paid under this chapter on the sale;

6010 (v) in accordance with Section 59-1-1410; and

6011 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
6012 the person files for the refund on or before June 30, 2011;

6013 (59) purchases:

6014 (a) of one or more of the following items in printed or electronic format:

6015 (i) a list containing information that includes one or more:

6016 (A) names; or

6017 (B) addresses; or

6018 (ii) a database containing information that includes one or more:

6019 (A) names; or

6020 (B) addresses; and

6021 (b) used to send direct mail;

6022 (60) redemptions or repurchases of a product by a person if that product was:
6023 (a) delivered to a pawnbroker as part of a pawn transaction; and
6024 (b) redeemed or repurchased within the time period established in a written agreement
6025 between the person and the pawnbroker for redeeming or repurchasing the product;
6026 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
6027 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
6028 and
6029 (ii) has a useful economic life of one or more years; and
6030 (b) the following apply to Subsection (61)(a):
6031 (i) telecommunications enabling or facilitating equipment, machinery, or software;
6032 (ii) telecommunications equipment, machinery, or software required for 911 service;
6033 (iii) telecommunications maintenance or repair equipment, machinery, or software;
6034 (iv) telecommunications switching or routing equipment, machinery, or software; or
6035 (v) telecommunications transmission equipment, machinery, or software;
6036 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
6037 personal property or a product transferred electronically that are used in the research and
6038 development of alternative energy technology; and
6039 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6040 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
6041 purchases of tangible personal property or a product transferred electronically that are used in
6042 the research and development of alternative energy technology;
6043 (63) (a) purchases of tangible personal property or a product transferred electronically
6044 if:
6045 (i) the tangible personal property or product transferred electronically is:
6046 (A) purchased outside of this state;
6047 (B) brought into this state at any time after the purchase described in Subsection
6048 (63)(a)(i)(A); and
6049 (C) used in conducting business in this state; and

6050 (ii) for:

6051 (A) tangible personal property or a product transferred electronically other than the

6052 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

6053 for a purpose for which the property is designed occurs outside of this state; or

6054 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

6055 outside of this state;

6056 (b) the exemption provided for in Subsection (63)(a) does not apply to:

6057 (i) a lease or rental of tangible personal property or a product transferred electronically;

6058 or

6059 (ii) a sale of a vehicle exempt under Subsection (33); and

6060 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

6061 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

6062 following:

6063 (i) conducting business in this state if that phrase has the same meaning in this

6064 Subsection (63) as in Subsection (24);

6065 (ii) the first use of tangible personal property or a product transferred electronically if

6066 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

6067 (iii) a purpose for which tangible personal property or a product transferred

6068 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

6069 Subsection (24);

6070 (64) sales of disposable home medical equipment or supplies if:

6071 (a) a person presents a prescription for the disposable home medical equipment or

6072 supplies;

6073 (b) the disposable home medical equipment or supplies are used exclusively by the

6074 person to whom the prescription described in Subsection (64)(a) is issued; and

6075 (c) the disposable home medical equipment and supplies are listed as eligible for

6076 payment under:

6077 (i) Title XVIII, federal Social Security Act; or

6078 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

6079 (65) sales:

6080 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

6081 District Act; or

6082 (b) of tangible personal property to a subcontractor of a public transit district, if the

6083 tangible personal property is:

6084 (i) clearly identified; and

6085 (ii) installed or converted to real property owned by the public transit district;

6086 (66) sales of construction materials:

6087 (a) purchased on or after July 1, 2010;

6088 (b) purchased by, on behalf of, or for the benefit of an international airport:

6089 (i) located within a county of the first class; and

6090 (ii) that has a United States customs office on its premises; and

6091 (c) if the construction materials are:

6092 (i) clearly identified;

6093 (ii) segregated; and

6094 (iii) installed or converted to real property:

6095 (A) owned or operated by the international airport described in Subsection (66)(b); and

6096 (B) located at the international airport described in Subsection (66)(b);

6097 (67) sales of construction materials:

6098 (a) purchased on or after July 1, 2008;

6099 (b) purchased by, on behalf of, or for the benefit of a new airport:

6100 (i) located within a county of the second class; and

6101 (ii) that is owned or operated by a city in which an airline as defined in Section

6102 [59-2-102](#) is headquartered; and

6103 (c) if the construction materials are:

6104 (i) clearly identified;

6105 (ii) segregated; and

- 6106 (iii) installed or converted to real property:
- 6107 (A) owned or operated by the new airport described in Subsection (67)(b);
- 6108 (B) located at the new airport described in Subsection (67)(b); and
- 6109 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 6110 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 6111 (69) purchases and sales described in Section [63H-4-111](#);
- 6112 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 6113 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 6114 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 6115 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 6116 powered aircraft; or
- 6117 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 6118 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 6119 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 6120 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 6121 powered aircraft;
- 6122 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 6123 (a) to a person admitted to an institution of higher education; and
- 6124 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 6125 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 6126 textbook for a higher education course;
- 6127 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 6128 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 6129 level of municipal services;
- 6130 (73) amounts paid or charged for construction materials used in the construction of a
- 6131 new or expanding life science research and development facility in the state, if the construction
- 6132 materials are:
- 6133 (a) clearly identified;

- 6134 (b) segregated; and
- 6135 (c) installed or converted to real property;
- 6136 (74) amounts paid or charged for:
- 6137 (a) a purchase or lease of machinery and equipment that:
- 6138 (i) are used in performing qualified research:
- 6139 (A) as defined in Section 41(d), Internal Revenue Code; and
- 6140 (B) in the state; and
- 6141 (ii) have an economic life of three or more years; and
- 6142 (b) normal operating repair or replacement parts:
- 6143 (i) for the machinery and equipment described in Subsection (74)(a); and
- 6144 (ii) that have an economic life of three or more years;
- 6145 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 6146 food if:
- 6147 (a) for a sale:
- 6148 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 6149 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 6150 tangible personal property prior to making the sale; or
- 6151 (b) for a lease:
- 6152 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 6153 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 6154 personal property prior to making the lease;
- 6155 (76) (a) purchases of machinery or equipment if:
- 6156 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 6157 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 6158 System of the federal Executive Office of the President, Office of Management and Budget;
- 6159 (ii) the machinery or equipment:
- 6160 (A) has an economic life of three or more years; and
- 6161 (B) is used by one or more persons who pay admission or user fees described in

6162 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
6163 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
6164 (A) amounts paid or charged as admission or user fees described in Subsection
6165 59-12-103(1)(f); and
6166 (B) subject to taxation under this chapter; and
6167 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6168 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
6169 previous calendar quarter is:
6170 (i) amounts paid or charged as admission or user fees described in Subsection
6171 59-12-103(1)(f); and
6172 (ii) subject to taxation under this chapter;
6173 (77) purchases of a short-term lodging consumable by a business that provides
6174 accommodations and services described in Subsection 59-12-103(1)(i);
6175 (78) amounts paid or charged to access a database:
6176 (a) if the primary purpose for accessing the database is to view or retrieve information
6177 from the database; and
6178 (b) not including amounts paid or charged for a:
6179 (i) digital audiowork;
6180 (ii) digital audio-visual work; or
6181 (iii) digital book;
6182 (79) amounts paid or charged for a purchase or lease made by an electronic financial
6183 payment service, of:
6184 (a) machinery and equipment that:
6185 (i) are used in the operation of the electronic financial payment service; and
6186 (ii) have an economic life of three or more years; and
6187 (b) normal operating repair or replacement parts that:
6188 (i) are used in the operation of the electronic financial payment service; and
6189 (ii) have an economic life of three or more years;

6190 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
6191 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
6192 product transferred electronically if the tangible personal property or product transferred
6193 electronically:
6194 (a) is stored, used, or consumed in the state; and
6195 (b) is temporarily brought into the state from another state:
6196 (i) during a disaster period as defined in Section 53-2a-1202;
6197 (ii) by an out-of-state business as defined in Section 53-2a-1202;
6198 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
6199 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
6200 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
6201 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
6202 Recreation Program;
6203 (83) amounts paid or charged for a purchase or lease of molten magnesium;
6204 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a
6205 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
6206 materials, or normal operating repair or replacement parts:
6207 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
6208 manufacturing process; and
6209 (ii) except for office:
6210 (A) equipment; or
6211 (B) supplies; and
6212 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
6213 exemption described in Subsection (84)(a) only by filing for a refund:
6214 (i) of 50% of the tax paid on the amounts paid or charged; and
6215 (ii) in accordance with Section 59-1-1410;
6216 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
6217 data center of machinery, equipment, or normal operating repair or replacement parts, if the

- 6218 machinery, equipment, or normal operating repair or replacement parts:
- 6219 (a) are used in the operation of the establishment; and
- 6220 (b) have an economic life of one or more years; [~~and~~]
- 6221 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
- 6222 normal operating repair or replacement parts by a manufacturing facility that:
- 6223 (a) is an establishment, as the commission defines that term in accordance with Title
- 6224 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 6225 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
- 6226 North American Industry Classification System of the federal Executive Office of the
- 6227 President, Office of Management and Budget;
- 6228 (c) is located in the state; and
- 6229 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
- 6230 the manufacturing process to manufacture an item sold as tangible personal property, as the
- 6231 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
- 6232 Administrative Rulemaking Act;
- 6233 (87) amounts paid or charged for a purchase or lease of equipment or normal operating
- 6234 repair or replacement parts with an economic life of less than three years by a manufacturing
- 6235 facility that:
- 6236 (a) is an establishment, as the commission defines that term in accordance with Title
- 6237 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 6238 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
- 6239 North American Industry Classification System of the federal Executive Office of the
- 6240 President, Office of Management and Budget;
- 6241 (c) is located in the state; and
- 6242 (d) uses the equipment or normal operating repair or replacement parts to manufacture
- 6243 hydrogen;
- 6244 (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 6245 vehicle that includes cleaning or washing of the interior of the vehicle; and

6246 (89) amounts paid or charged for a purchase or lease of machinery, equipment, normal
6247 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
6248 or consumed:

6249 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
6250 in Section [63M-4-701](#) located in the state;

6251 (b) if the machinery, equipment, normal operating repair or replacement parts,
6252 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

6253 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
6254 added to gasoline or diesel fuel;

6255 (ii) research and development;

6256 (iii) transporting, storing, or managing raw materials, work in process, finished
6257 products, and waste materials produced from refining gasoline or diesel fuel, or adding
6258 blendstock to gasoline or diesel fuel;

6259 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
6260 refining; or

6261 (v) preventing, controlling, or reducing pollutants from refining; and

6262 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
6263 of Energy Development under Subsection [63M-4-702\(2\)](#).

6264 Section 57. Section **59-12-104.5** is amended to read:

6265 **59-12-104.5. Revenue and Taxation Interim Committee review of sales and use**
6266 **taxes.**

6267 The Revenue and Taxation Interim Committee shall:

6268 (1) review Subsection [59-12-104\(28\)](#) before October 1 of the year after the year in
6269 which Congress permits a state to participate in the special supplemental nutrition program
6270 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on
6271 purchases of food under that program;

6272 (2) review Subsection [59-12-104\(21\)](#) before October 1 of the year after the year in
6273 which Congress permits a state to participate in the SNAP as defined in Section [35A-1-102](#),

6274 even if state or local sales taxes are collected within the state on purchases of food under that
6275 program; and

6276 (3) on or before November 30:

6277 (a) require the Governor's Office of Economic Development to provide the report
6278 described in Section 63N-1-302(2);

6279 (b) review for each exemption described in ~~[Subsection]~~ Subsections 59-12-104(86)
6280 and (87):

6281 (i) the cost of the exemption;

6282 (ii) the purpose and effectiveness of the exemption; and

6283 (iii) the extent to which the state benefits from the exemption; and

6284 (c) make recommendations concerning whether the exemptions described in
6285 Subsections 59-12-104(86) and (87) should be continued, modified, or repealed.

6286 Section 58. Section 59-13-301 is amended to read:

6287 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
6288 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

6289 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
6290 59-13-304, a tax is imposed at the same ~~[rates]~~ rate imposed under Subsection 59-13-201(1)(a)
6291 on the:

6292 (i) removal of undyed diesel fuel from any refinery;

6293 (ii) removal of undyed diesel fuel from any terminal;

6294 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
6295 warehousing;

6296 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
6297 this part unless the tax has been collected under this section;

6298 (v) any untaxed special fuel blended with undyed diesel fuel; or

6299 (vi) use of untaxed special fuel other than propane or electricity.

6300 (b) The tax imposed under this section shall only be imposed once upon any special
6301 fuel.

- 6302 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
- 6303 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
- 6304 the public highways of the state, but this exemption applies only in those cases where the
- 6305 purchasers or the users of special fuel establish to the satisfaction of the commission that the
- 6306 special fuel was used for purposes other than to operate a motor vehicle upon the public
- 6307 highways of the state; or
- 6308 (ii) is sold to this state or any of its political subdivisions.
- 6309 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:
- 6310 (i) sold to the United States government or any of its instrumentalities or to this state or
- 6311 any of its political subdivisions;
- 6312 (ii) exported from this state if proof of actual exportation on forms prescribed by the
- 6313 commission is made within 180 days after exportation;
- 6314 (iii) used in a vehicle off-highway;
- 6315 (iv) used to operate a power take-off unit of a vehicle;
- 6316 (v) used for off-highway agricultural uses;
- 6317 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
- 6318 upon the highways of the state; or
- 6319 (vii) used in machinery and equipment not registered and not required to be registered
- 6320 for highway use.
- 6321 (3) No tax is imposed or collected on special fuel if it is:
- 6322 (a) (i) purchased for business use in machinery and equipment not registered and not
- 6323 required to be registered for highway use; and
- 6324 (ii) used pursuant to the conditions of a state implementation plan approved under Title
- 6325 19, Chapter 2, Air Conservation Act; or
- 6326 (b) propane or electricity.
- 6327 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
- 6328 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.
- 6329 (5) The special fuel tax shall be paid by the supplier.

6330 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
6331 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

6332 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
6333 which are delivered into vehicles and for which special fuel tax liability is reported.

6334 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the
6335 commission from taxes and license fees under this part shall be deposited daily with the state
6336 treasurer and credited to the Transportation Fund.

6337 (b) An appropriation from the Transportation Fund shall be made to the commission to
6338 cover expenses incurred in the administration and enforcement of this part and the collection of
6339 the special fuel tax.

6340 (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303
6341 may be used by the commission as a dedicated credit to cover the costs of electronic
6342 credentialing as provided in Section 41-1a-303.

6343 (8) The commission may either collect no tax on special fuel exported from the state
6344 or, upon application, refund the tax paid.

6345 (9) (a) The United States government or any of its instrumentalities, this state, or a
6346 political subdivision of this state that has purchased special fuel from a supplier or from a retail
6347 dealer of special fuel and has paid the tax on the special fuel as provided in this section is
6348 entitled to a refund of the tax and may file with the commission for a quarterly refund in a
6349 manner prescribed by the commission.

6350 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6351 commission shall make rules governing the application and refund provided for in Subsection
6352 (9)(a).

6353 (10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses
6354 under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid
6355 as provided in Subsection (9) and this Subsection (10).

6356 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6357 commission shall make rules governing the application and refund for off-highway and

6358 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

6359 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural
6360 uses shall be made in accordance with the tax return procedures under Section 59-13-202.

6361 (11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is
6362 reduced to the extent provided in Subsection (11)(b) if:

6363 (i) the Navajo Nation imposes a tax on the special fuel;

6364 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
6365 person required to pay the tax is an enrolled member of the Navajo Nation; and

6366 (iii) the commission and the Navajo Nation execute and maintain an agreement as
6367 provided in this Subsection (11) for the administration of the reduction of tax.

6368 (b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this
6369 section:

6370 (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that
6371 difference is greater than \$0; and

6372 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
6373 if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

6374 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference
6375 between:

6376 (A) the amount of tax imposed on the special fuel by this section; less

6377 (B) the tax imposed and collected by the Navajo Nation on the special fuel.

6378 (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on
6379 the special fuel does not include any interest or penalties a taxpayer may be required to pay to
6380 the Navajo Nation.

6381 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6382 commission shall make rules governing the procedures for administering the reduction of tax
6383 provided under this Subsection (11).

6384 (e) The agreement required under Subsection (11)(a):

6385 (i) may not:

6386 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

6387 (B) provide a reduction of taxes greater than or different from the reduction described
6388 in this Subsection (11); or

6389 (C) affect the power of the state to establish rates of taxation;

6390 (ii) shall:

6391 (A) be in writing;

6392 (B) be signed by:

6393 (I) the chair of the commission or the chair's designee; and

6394 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;

6395 (C) be conditioned on obtaining any approval required by federal law;

6396 (D) state the effective date of the agreement; and

6397 (E) state any accommodation the Navajo Nation makes related to the construction and
6398 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
6399 Nation; and

6400 (iii) may:

6401 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
6402 Navajo Nation information that is:

6403 (I) contained in a document filed with the commission; and

6404 (II) related to the tax imposed under this section;

6405 (B) provide for maintaining records by the commission or the Navajo Nation; or

6406 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
6407 located or doing business within the Utah portion of the Navajo Nation.

6408 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
6409 imposed on special fuel, any change in the amount of the reduction of taxes under this
6410 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
6411 calendar quarter after a 60-day period beginning on the date the commission receives notice:

6412 (A) from the Navajo Nation; and

6413 (B) meeting the requirements of Subsection (11)(f)(ii).

- 6414 (ii) The notice described in Subsection (11)(f)(i) shall state:
- 6415 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
6416 special fuel;
- 6417 (B) the effective date of the rate change of the tax described in Subsection
6418 (11)(f)(ii)(A); and
- 6419 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
- 6420 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
6421 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
6422 30-day period beginning on the day the agreement terminates.
- 6423 (h) If there is a conflict between this Subsection (11) and the agreement required by
6424 Subsection (11)(a), this Subsection (11) governs.
- 6425 (12) (a) A tax imposed under this section on compressed natural gas is imposed at a
6426 rate of:
- 6427 (i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;
- 6428 (ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon
6429 equivalent;
- 6430 (iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline
6431 gallon equivalent; and
- 6432 (iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.
- 6433 (b) A tax imposed under this section on liquified natural gas is imposed at a rate of:
- 6434 (i) until June 30, 2016, 10-1/2 cents per diesel gallon equivalent;
- 6435 (ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per diesel gallon
6436 equivalent;
- 6437 (iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per diesel gallon
6438 equivalent; and
- 6439 (iv) beginning on or after July 1, 2018, 16-1/2 cents per diesel gallon equivalent.
- 6440 (c) A tax imposed under this section on hydrogen used to operate or propel a motor
6441 vehicle upon the public highways of the state is imposed at a rate of:

- 6442 (i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;
- 6443 (ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon
- 6444 equivalent;
- 6445 (iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline
- 6446 gallon equivalent; and
- 6447 (iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

6448 Section 59. Section **61-2g-103** is amended to read:

6449 **61-2g-103. Other law unaffected.**

6450 This chapter may not be considered to prohibit a person licensed, certified, or registered
6451 under this chapter from engaging in the practice of real estate appraising as a professional
6452 corporation or a limited liability company in accordance with:

6453 (1) Title 16, Chapter 11, Professional Corporation Act; or

6454 (2) [~~Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or~~] Title 48,
6455 Chapter 3a, Utah Revised Uniform Limited Liability Company Act[~~, as appropriate pursuant to~~
6456 ~~Section 48-3a-1405~~].

6457 Section 60. Section **62A-4a-105** is amended to read:

6458 **62A-4a-105. Division responsibilities.**

6459 (1) The division shall:

6460 (a) administer services to minors and families, including:

6461 (i) child welfare services;

6462 (ii) domestic violence services; and

6463 (iii) all other responsibilities that the Legislature or the executive director may assign
6464 to the division;

6465 (b) provide the following services:

6466 (i) financial and other assistance to an individual adopting a child with special needs
6467 under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the
6468 child as a legal ward of the state;

6469 (ii) non-custodial and in-home services, including:

- 6470 (A) services designed to prevent family break-up; and
- 6471 (B) family preservation services;
- 6472 (iii) reunification services to families whose children are in substitute care in
6473 accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;
- 6474 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse
6475 or neglect of a child in that family;
- 6476 (v) shelter care in accordance with the requirements of this chapter and Title 78A,
6477 Chapter 6, Juvenile Court Act;
- 6478 (vi) domestic violence services, in accordance with the requirements of federal law;
- 6479 (vii) protective services to victims of domestic violence, as defined in Section 77-36-1,
6480 and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6,
6481 Part 3, Abuse, Neglect, and Dependency Proceedings;
- 6482 (viii) substitute care for dependent, abused, neglected, and delinquent children;
- 6483 (ix) services for minors who are victims of human trafficking or human smuggling as
6484 described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual
6485 solicitation as defined in Section 76-10-1302; and
- 6486 (x) training for staff and providers involved in the administration and delivery of
6487 services offered by the division in accordance with this chapter;
- 6488 (c) establish standards for all:
 - 6489 (i) contract providers of out-of-home care for minors and families;
 - 6490 (ii) facilities that provide substitute care for dependent, abused, neglected, and
6491 delinquent children placed in the custody of the division; and
 - 6492 (iii) direct or contract providers of domestic violence services described in Subsection
6493 (1)(b)(vi);
- 6494 (d) have authority to:
 - 6495 (i) contract with a private, nonprofit organization to recruit and train foster care
6496 families and child welfare volunteers in accordance with Section 62A-4a-107.5; and
 - 6497 (ii) approve facilities that meet the standards established under Subsection (1)(c) to

6498 provide substitute care for dependent, abused, neglected, and delinquent children placed in the
6499 custody of the division;

6500 (e) cooperate with the federal government in the administration of child welfare and
6501 domestic violence programs and other human service activities assigned by the department;

6502 (f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of
6503 division records to the same extent that the division is required to protect division records,
6504 cooperate with and share all appropriate information in the division's possession regarding an
6505 Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child
6506 with the Indian tribe that is affiliated with the Indian child;

6507 (g) in accordance with Subsection (2)(a), promote and enforce state and federal laws
6508 enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and
6509 runaway children, and status offenders, in accordance with the requirements of this chapter,
6510 unless administration is expressly vested in another division or department of the state;

6511 (h) cooperate with the Workforce Development Division in the Department of
6512 Workforce Services in meeting the social and economic needs of an individual who is eligible
6513 for public assistance;

6514 (i) compile relevant information, statistics, and reports on child and family service
6515 matters in the state;

6516 (j) prepare and submit to the department, the governor, and the Legislature reports of
6517 the operation and administration of the division in accordance with the requirements of
6518 Sections [62A-4a-117](#) and [62A-4a-118](#);

6519 (k) provide social studies and reports for the juvenile court in accordance with Section
6520 [78A-6-605](#);

6521 (l) within appropriations from the Legislature, provide or contract for a variety of
6522 domestic violence services and treatment methods;

6523 (m) ensure regular, periodic publication, including electronic publication, regarding the
6524 number of children in the custody of the division who:

6525 (i) have a permanency goal of adoption; or

6526 (ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314,
6527 and promote adoption of those children;

6528 (n) subject to Subsection (2)(b), refer an individual receiving services from the division
6529 to the local substance abuse authority or other private or public resource for a court-ordered
6530 drug screening test; and

6531 (o) perform other duties and functions required by law.

6532 (2) (a) In carrying out the requirements of Subsection (1)~~(f)~~(g), the division shall:

6533 (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and
6534 with all public and private licensed child welfare agencies and institutions to develop and
6535 administer a broad range of services and support;

6536 (ii) take the initiative in all matters involving the protection of abused or neglected
6537 children, if adequate provisions have not been made or are not likely to be made; and

6538 (iii) make expenditures necessary for the care and protection of the children described
6539 in this Subsection (2)(a), within the division's budget.

6540 (b) When an individual is referred to a local substance abuse authority or other private
6541 or public resource for court-ordered drug screening under Subsection (1)(n), the court shall
6542 order the individual to pay all costs of the tests unless:

6543 (i) the cost of the drug screening is specifically funded or provided for by other federal
6544 or state programs;

6545 (ii) the individual is a participant in a drug court; or

6546 (iii) the court finds that the individual is impecunious.

6547 (3) Except to the extent provided by rule, the division is not responsible for
6548 investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

6549 (4) The division may not require a parent who has a child in the custody of the division
6550 to pay for some or all of the cost of any drug testing the parent is required to undergo.

6551 Section 61. Section 62A-15-401 is amended to read:

6552 **62A-15-401. Alcohol training and education seminar.**

6553 (1) As used in this part:

6554 (a) "Instructor" means a person that directly provides the instruction during an alcohol
6555 training and education seminar for a seminar provider.

6556 (b) "Licensee" means a person who is:

6557 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;

6558 and

6559 (B) engaged in the retail sale of an alcoholic product for consumption on the premises

6560 of the licensee; or

6561 (ii) a business that is:

6562 (A) a new or renewing licensee licensed by a city, town, or county; and

6563 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

6564 (c) "Off-premise beer retailer" is as defined in Section [32B-1-102](#).

6565 (d) "Seminar provider" means a person other than the division who provides an alcohol

6566 training and education seminar meeting the requirements of this section.

6567 (2) (a) This section applies to:

6568 (i) a retail manager as defined in Section [32B-5-402](#);

6569 (ii) retail staff as defined in Section [32B-5-402](#); and

6570 (iii) an individual who, as defined by division rule:

6571 (A) directly supervises the sale of beer to a customer for consumption off the premises

6572 of an off-premise beer retailer; or

6573 (B) sells beer to a customer for consumption off the premises of an off-premise beer

6574 retailer.

6575 (b) If the individual does not have a valid record that the individual has completed an

6576 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

6577 (i) (A) complete an alcohol training and education seminar within 30 days of the

6578 following if the individual is described in Subsections (2)(a)(i) through (iii):

6579 (I) if the individual is an employee, the day the individual begins employment;

6580 (II) if the individual is an independent contractor, the day the individual is first hired;

6581 or

6582 (III) if the individual holds an ownership interest in the licensee, the day that the
6583 individual first engages in an activity that would result in that individual being required to
6584 complete an alcohol training and education seminar; or

6585 (B) complete an alcohol training and education seminar within the time periods
6586 specified in Subsection 32B-5-404(1) if the individual is described in Subsections
6587 (2)(a)~~[(iv)]~~[(iii)(A)] and ~~[(v)]~~ (B); and

6588 (ii) pay a fee:

6589 (A) to the seminar provider; and

6590 (B) that is equal to or greater than the amount established under Subsection (4)(h).

6591 (c) An individual shall have a valid record that the individual completed an alcohol
6592 training and education seminar within the time period provided in this Subsection (2) to engage
6593 in an activity described in Subsection (2)(a).

6594 (d) A record that an individual has completed an alcohol training and education
6595 seminar is valid for:

6596 (i) three years from the day on which the record is issued for an individual described in
6597 Subsection (2)(a)(i), (ii), or (iii); and

6598 (ii) five years from the day on which the record is issued for an individual described in
6599 Subsection (2)(a)~~[(iv)]~~[(iii)(A)] or ~~[(v)]~~ (B).

6600 (e) On and after July 1, 2011, to be considered as having completed an alcohol training
6601 and education seminar, an individual shall:

6602 (i) attend the alcohol training and education seminar and take any test required to
6603 demonstrate completion of the alcohol training and education seminar in the physical presence
6604 of an instructor of the seminar provider; or

6605 (ii) complete the alcohol training and education seminar and take any test required to
6606 demonstrate completion of the alcohol training and education seminar through an online course
6607 or testing program that meets the requirements described in Subsection (2)(f).

6608 (f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
6609 Administrative Rulemaking Act, establish one or more requirements for an online course or

6610 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of
6611 the online course or testing program. In developing the requirements by rule the division shall
6612 consider whether to require:

6613 (i) authentication that the an individual accurately identifies the individual as taking the
6614 online course or test;

6615 (ii) measures to ensure that an individual taking the online course or test is focused on
6616 training material throughout the entire training period;

6617 (iii) measures to track the actual time an individual taking the online course or test is
6618 actively engaged online;

6619 (iv) a seminar provider to provide technical support, such as requiring a telephone
6620 number, email, or other method of communication that allows an individual taking the online
6621 course or test to receive assistance if the individual is unable to participate online because of
6622 technical difficulties;

6623 (v) a test to meet quality standards, including randomization of test questions and
6624 maximum time limits to take a test;

6625 (vi) a seminar provider to have a system to reduce fraud as to who completes an online
6626 course or test, such as requiring a distinct online certificate with information printed on the
6627 certificate that identifies the person taking the online course or test, or requiring measures to
6628 inhibit duplication of a certificate;

6629 (vii) measures for the division to audit online courses or tests;

6630 (viii) measures to allow an individual taking an online course or test to provide an
6631 evaluation of the online course or test;

6632 (ix) a seminar provider to track the Internet protocol address or similar electronic
6633 location of an individual who takes an online course or test;

6634 (x) an individual who takes an online course or test to use an e-signature; or

6635 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the
6636 certificate does not accurately reflect the individual who took the online course or test.

6637 (3) (a) A licensee may not permit an individual who is not in compliance with

6638 Subsection (2) to:

6639 (i) serve or supervise the serving of an alcoholic product to a customer for
6640 consumption on the premises of the licensee;

6641 (ii) engage in any activity that would constitute managing operations at the premises of
6642 a licensee that engages in the retail sale of an alcoholic product for consumption on the
6643 premises of the licensee;

6644 (iii) directly supervise the sale of beer to a customer for consumption off the premises
6645 of an off-premise beer retailer; or

6646 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
6647 retailer.

6648 (b) A licensee that violates Subsection (3)(a) is subject to Section [32B-5-403](#).

6649 (4) The division shall:

6650 (a) (i) provide alcohol training and education seminars; or

6651 (ii) certify one or more seminar providers;

6652 (b) establish the curriculum for an alcohol training and education seminar that includes
6653 the following subjects:

6654 (i) (A) alcohol as a drug; and

6655 (B) alcohol's effect on the body and behavior;

6656 (ii) recognizing the problem drinker or signs of intoxication;

6657 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
6658 as determined in consultation with the Department of Alcoholic Beverage Control;

6659 (iv) dealing with the problem customer, including ways to terminate sale or service;

6660 and

6661 (v) for those supervising or engaging in the retail sale of an alcoholic product for
6662 consumption on the premises of a licensee, alternative means of transportation to get the
6663 customer safely home;

6664 (c) recertify each seminar provider every three years;

6665 (d) monitor compliance with the curriculum described in Subsection (4)(b);

- 6666 (e) maintain for at least five years a record of every person who has completed an
6667 alcohol training and education seminar;
- 6668 (f) provide the information described in Subsection (4)(e) on request to:
6669 (i) the Department of Alcoholic Beverage Control;
6670 (ii) law enforcement; or
6671 (iii) a person licensed by the state or a local government to sell an alcoholic product;
- 6672 (g) provide the Department of Alcoholic Beverage Control on request a list of any
6673 seminar provider certified by the division; and
- 6674 (h) establish a fee amount for each person attending an alcohol training and education
6675 seminar that is sufficient to offset the division's cost of administering this section.
- 6676 (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
6677 Administrative Rulemaking Act:
- 6678 (a) define what constitutes under this section an individual who:
6679 (i) manages operations at the premises of a licensee engaged in the retail sale of an
6680 alcoholic product for consumption on the premises of the licensee;
6681 (ii) supervises the serving of an alcoholic product to a customer for consumption on the
6682 premises of a licensee;
6683 (iii) serves an alcoholic product to a customer for consumption on the premises of a
6684 licensee;
6685 (iv) directly supervises the sale of beer to a customer for consumption off the premises
6686 of an off-premise beer retailer; or
6687 (v) sells beer to a customer for consumption off the premises of an off-premise beer
6688 retailer;
- 6689 (b) establish criteria for certifying and recertifying a seminar provider; and
6690 (c) establish guidelines for the manner in which an instructor provides an alcohol
6691 education and training seminar.
- 6692 (6) A seminar provider shall:
6693 (a) obtain recertification by the division every three years;

- 6694 (b) ensure that an instructor used by the seminar provider:
- 6695 (i) follows the curriculum established under this section; and
- 6696 (ii) conducts an alcohol training and education seminar in accordance with the
- 6697 guidelines established by rule;
- 6698 (c) ensure that any information provided by the seminar provider or instructor of a
- 6699 seminar provider is consistent with:
- 6700 (i) the curriculum established under this section; and
- 6701 (ii) this section;
- 6702 (d) provide the division with the names of all persons who complete an alcohol training
- 6703 and education seminar provided by the seminar provider;
- 6704 (e) (i) collect a fee for each person attending an alcohol training and education seminar
- 6705 in accordance with Subsection (2); and
- 6706 (ii) forward to the division the portion of the fee that is equal to the amount described
- 6707 in Subsection (4)(h); and
- 6708 (f) issue a record to an individual that completes an alcohol training and education
- 6709 seminar provided by the seminar provider.
- 6710 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
- 6711 Administrative Procedures Act, the division finds that a seminar provider violates this section
- 6712 or that an instructor of the seminar provider violates this section, the division may:
- 6713 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
- 6714 (ii) revoke the certification of the seminar provider;
- 6715 (iii) require the seminar provider to take corrective action regarding an instructor; or
- 6716 (iv) prohibit the seminar provider from using an instructor until such time that the
- 6717 seminar provider establishes to the satisfaction of the division that the instructor is in
- 6718 compliance with Subsection (6)(b).
- 6719 (b) The division may certify a seminar provider whose certification is revoked:
- 6720 (i) no sooner than 90 days from the date the certification is revoked; and
- 6721 (ii) if the seminar provider establishes to the satisfaction of the division that the

6722 seminar provider will comply with this section.

6723 Section 62. Section **63G-2-302** is amended to read:

6724 **63G-2-302. Private records.**

6725 (1) The following records are private:

6726 (a) records concerning an individual's eligibility for unemployment insurance benefits,
6727 social services, welfare benefits, or the determination of benefit levels;

6728 (b) records containing data on individuals describing medical history, diagnosis,
6729 condition, treatment, evaluation, or similar medical data;

6730 (c) records of publicly funded libraries that when examined alone or with other records
6731 identify a patron;

6732 (d) records received by or generated by or for:

6733 (i) the Independent Legislative Ethics Commission, except for:

6734 (A) the commission's summary data report that is required under legislative rule; and

6735 (B) any other document that is classified as public under legislative rule; or

6736 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
6737 unless the record is classified as public under legislative rule;

6738 (e) records received by, or generated by or for, the Independent Executive Branch
6739 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
6740 of Executive Branch Ethics Complaints;

6741 (f) records received or generated for a Senate confirmation committee concerning
6742 character, professional competence, or physical or mental health of an individual:

6743 (i) if, prior to the meeting, the chair of the committee determines release of the records:

6744 (A) reasonably could be expected to interfere with the investigation undertaken by the
6745 committee; or

6746 (B) would create a danger of depriving a person of a right to a fair proceeding or
6747 impartial hearing; and

6748 (ii) after the meeting, if the meeting was closed to the public;

6749 (g) employment records concerning a current or former employee of, or applicant for

6750 employment with, a governmental entity that would disclose that individual's home address,
6751 home telephone number, social security number, insurance coverage, marital status, or payroll
6752 deductions;

6753 (h) records or parts of records under Section 63G-2-303 that a current or former
6754 employee identifies as private according to the requirements of that section;

6755 (i) that part of a record indicating a person's social security number or federal employer
6756 identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202,
6757 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

6758 (j) that part of a voter registration record identifying a voter's:

6759 (i) driver license or identification card number;

6760 (ii) ~~[Social Security]~~ social security number, or last four digits of the ~~[Social Security]~~
6761 social security number;

6762 (iii) email address; or

6763 (iv) date of birth;

6764 (k) a voter registration record that is classified as a private record by the lieutenant
6765 governor or a county clerk under Subsection 20A-2-104(4)(f) or 20A-2-101.1(5)(a);

6766 (l) a record that:

6767 (i) contains information about an individual;

6768 (ii) is voluntarily provided by the individual; and

6769 (iii) goes into an electronic database that:

6770 (A) is designated by and administered under the authority of the Chief Information
6771 Officer; and

6772 (B) acts as a repository of information about the individual that can be electronically
6773 retrieved and used to facilitate the individual's online interaction with a state agency;

6774 (m) information provided to the Commissioner of Insurance under:

6775 (i) Subsection 31A-23a-115(3)(a);

6776 (ii) Subsection 31A-23a-302(4); or

6777 (iii) Subsection 31A-26-210(4);

6778 (n) information obtained through a criminal background check under Title 11, Chapter
6779 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

6780 (o) information provided by an offender that is:

6781 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
6782 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

6783 (ii) not required to be made available to the public under Subsection [77-41-110\(4\)](#) or
6784 [77-43-108\(4\)](#);

6785 (p) a statement and any supporting documentation filed with the attorney general in
6786 accordance with Section [34-45-107](#), if the federal law or action supporting the filing involves
6787 homeland security;

6788 (q) electronic toll collection customer account information received or collected under
6789 Section [72-6-118](#) and customer information described in Section [17B-2a-815](#) received or
6790 collected by a public transit district, including contact and payment information and customer
6791 travel data;

6792 (r) an email address provided by a military or overseas voter under Section
6793 [20A-16-501](#);

6794 (s) a completed military-overseas ballot that is electronically transmitted under Title
6795 20A, Chapter 16, Uniform Military and Overseas Voters Act;

6796 (t) records received by or generated by or for the Political Subdivisions Ethics Review
6797 Commission established in Section [11-49-201](#), except for:

6798 (i) the commission's summary data report that is required in Section [11-49-202](#); and

6799 (ii) any other document that is classified as public in accordance with Title 11, Chapter
6800 49, Political Subdivisions Ethics Review Commission;

6801 (u) a record described in Subsection [53A-11a-203\(3\)](#) that verifies that a parent was
6802 notified of an incident or threat; ~~and~~

6803 (v) a criminal background check or credit history report conducted in accordance with
6804 Section [63A-3-201](#)~~[-];~~ and

6805 (w) a record described in Subsection [53-5a-104\(7\)](#).

- 6806 (2) The following records are private if properly classified by a governmental entity:
- 6807 (a) records concerning a current or former employee of, or applicant for employment
- 6808 with a governmental entity, including performance evaluations and personal status information
- 6809 such as race, religion, or disabilities, but not including records that are public under Subsection
- 6810 [63G-2-301\(2\)\(b\)](#) or [63G-2-301\(3\)\(o\)](#) or private under Subsection (1)(b);
- 6811 (b) records describing an individual's finances, except that the following are public:
- 6812 (i) records described in Subsection [63G-2-301\(2\)](#);
- 6813 (ii) information provided to the governmental entity for the purpose of complying with
- 6814 a financial assurance requirement; or
- 6815 (iii) records that must be disclosed in accordance with another statute;
- 6816 (c) records of independent state agencies if the disclosure of those records would
- 6817 conflict with the fiduciary obligations of the agency;
- 6818 (d) other records containing data on individuals the disclosure of which constitutes a
- 6819 clearly unwarranted invasion of personal privacy;
- 6820 (e) records provided by the United States or by a government entity outside the state
- 6821 that are given with the requirement that the records be managed as private records, if the
- 6822 providing entity states in writing that the record would not be subject to public disclosure if
- 6823 retained by it;
- 6824 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
- 6825 created in Section [62A-3-102](#), that may disclose, or lead to the discovery of, the identity of a
- 6826 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 6827 (g) audio and video recordings created by a body-worn camera, as defined in Section
- 6828 [77-7a-103](#), that record sound or images inside a home or residence except for recordings that:
- 6829 (i) depict the commission of an alleged crime;
- 6830 (ii) record any encounter between a law enforcement officer and a person that results in
- 6831 death or bodily injury, or includes an instance when an officer fires a weapon;
- 6832 (iii) record any encounter that is the subject of a complaint or a legal proceeding
- 6833 against a law enforcement officer or law enforcement agency;

6834 (iv) contain an officer involved critical incident as defined in Section 76-2-408(1)(d);

6835 or

6836 (v) have been requested for reclassification as a public record by a subject or
6837 authorized agent of a subject featured in the recording.

6838 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
6839 records, statements, history, diagnosis, condition, treatment, and evaluation.

6840 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
6841 doctors, or affiliated entities are not private records or controlled records under Section
6842 63G-2-304 when the records are sought:

6843 (i) in connection with any legal or administrative proceeding in which the patient's
6844 physical, mental, or emotional condition is an element of any claim or defense; or

6845 (ii) after a patient's death, in any legal or administrative proceeding in which any party
6846 relies upon the condition as an element of the claim or defense.

6847 (c) Medical records are subject to production in a legal or administrative proceeding
6848 according to state or federal statutes or rules of procedure and evidence as if the medical
6849 records were in the possession of a nongovernmental medical care provider.

6850 Section 63. Section 63G-3-102 is amended to read:

6851 **63G-3-102. Definitions.**

6852 As used in this chapter:

6853 (1) "Administrative record" means information an agency relies upon when making a
6854 rule under this chapter including:

6855 (a) the proposed rule, change in the proposed rule, and the rule analysis form;

6856 (b) the public comment received and recorded by the agency during the public
6857 comment period;

6858 (c) the agency's response to the public comment;

6859 (d) the agency's analysis of the public comment; and

6860 (e) the agency's report of its decision-making process.

6861 (2) "Agency" means each state board, authority, commission, institution, department,

6862 division, officer, or other state government entity other than the Legislature, its committees, the
6863 political subdivisions of the state, or the courts, which is authorized or required by law to make
6864 rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or
6865 perform other similar actions or duties delegated by law.

6866 (3) "Bulletin" means the Utah State Bulletin.

6867 (4) "Catchline" means a short summary of each section, part, rule, or title of the code
6868 that follows the section, part, rule, or title reference placed before the text of the rule and serves
6869 the same function as boldface in legislation as described in Section [68-3-13](#).

6870 (5) "Code" means the body of all effective rules as compiled and organized by the
6871 ~~[division]~~ office and entitled "Utah Administrative Code."

6872 (6) "Department" means the Department of Administrative Services created in Section
6873 [63A-1-104](#).

6874 (7) "Effective" means operative and enforceable.

6875 (8) "Executive director" means the executive director of the department.

6876 (9) (a) "File" means to submit a document to the office as prescribed by the
6877 department.

6878 (b) "Filing date" means the day and time the document is recorded as received by the
6879 office.

6880 (10) "Interested person" means any person affected by or interested in a proposed rule,
6881 amendment to an existing rule, or a nonsubstantive change made under Section [63G-3-402](#).

6882 (11) "Office" means the Office of Administrative Rules created in Section [63G-3-401](#).

6883 (12) "Order" means an agency action that determines the legal rights, duties, privileges,
6884 immunities, or other interests of one or more specific persons, but not a class of persons.

6885 (13) "Person" means any individual, partnership, corporation, association,
6886 governmental entity, or public or private organization of any character other than an agency.

6887 (14) "Publication" or "publish" means making a rule available to the public by
6888 including the rule or a summary of the rule in the bulletin.

6889 (15) "Publication date" means the inscribed date of the bulletin.

- 6890 (16) "Register" may include an electronic database.
- 6891 (17) (a) "Rule" means an agency's written statement that:
- 6892 (i) is explicitly or implicitly required by state or federal statute or other applicable law;
- 6893 (ii) implements or interprets a state or federal legal mandate; and
- 6894 (iii) applies to a class of persons or another agency.
- 6895 (b) "Rule" includes the amendment or repeal of an existing rule.
- 6896 (c) "Rule" does not mean:
- 6897 (i) orders;
- 6898 (ii) an agency's written statement that applies only to internal management and that
- 6899 does not restrict the legal rights of a public class of persons or another agency;
- 6900 (iii) the governor's executive orders or proclamations;
- 6901 (iv) opinions issued by the attorney general's office;
- 6902 (v) declaratory rulings issued by the agency according to Section 63G-4-503 except as
- 6903 required by Section 63G-3-201;
- 6904 (vi) rulings by an agency in adjudicative proceedings, except as required by Subsection
- 6905 63G-3-201(6); or
- 6906 (vii) an agency written statement that is in violation of any state or federal law.
- 6907 (18) "Rule analysis" means the format prescribed by the department to summarize and
- 6908 analyze rules.
- 6909 (19) "Small business" means a business employing fewer than 50 persons.
- 6910 (20) "Substantive change" means a change in a rule that affects the application or
- 6911 results of agency actions.
- 6912 Section 64. Section 63G-21-102 is amended to read:
- 6913 **63G-21-102. Definitions.**
- 6914 As used in this chapter:
- 6915 (1) "Designated agency" means:
- 6916 (a) the Governor's Office of Economic Development;
- 6917 (b) the Division of Wildlife Resources;

6918 (c) the Department of Public Safety;

6919 (d) the Department of Technology Services; or

6920 (e) the Department of Workforce Services.

6921 (2) (a) "State service" means a service or benefit regularly provided to the public by a
6922 designated agency.

6923 (b) "State service" includes:

6924 (i) for the Governor's Office of Economic Development or the Department of
6925 Technology Services, public high-speed Internet access;

6926 (ii) for the Division of Wildlife Resources, fishing, hunting, and trapping licenses;

6927 (iii) for the Department of Public Safety, fingerprinting, an online driver license
6928 renewal, online appointment scheduling, an online motor vehicle record request, and an online
6929 change of address with the Driver License Division; and

6930 (iv) for the Department of Workforce Services, online job searches, verification of
6931 submission for benefits administered by the Department of Workforce Services, online
6932 unemployment applications, online food stamp applications, and online appointment
6933 scheduling.

6934 (3) "USPS" means the United States Postal Service.

6935 Section 65. Section **63I-1-226** is amended to read:

6936 **63I-1-226. Repeal dates, Title 26.**

6937 (1) Section **26-1-40** is repealed July 1, 2019.

6938 (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
6939 1, 2025.

6940 (3) Section **26-10-11** is repealed July 1, 2020.

6941 (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

6942 (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

6943 (6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

6944 [~~(7) Section **26-38-2.5** is repealed July 1, 2017.~~]

6945 [~~(8) Section **26-38-2.6** is repealed July 1, 2017.~~]

6946 ~~[(9)]~~ (7) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.

6947 Section 66. Section **63I-1-257** is amended to read:

6948 **63I-1-257. Repeal dates, Title 57.**

6949 ~~[(1)]~~ Section ~~57-1-25.5~~ is repealed on July 1, 2018.

6950 ~~[(2) Subsection 57-16-4(12), on July 1, 2017, is modified to read as follows:]~~

6951 ~~["(12) The mobile home park shall have a copy of this chapter posted at all times in a~~
6952 ~~conspicuous place in a common area of the mobile home park."]~~

6953 ~~[(3) Title 57, Chapter 16a, Mobile Home Park Helpline, is repealed July 1, 2017.]~~

6954 Section 67. Section **63I-1-259** is amended to read:

6955 **63I-1-259. Repeal dates, Title 59.**

6956 (1) Section ~~59-1-213.1~~ is repealed on May 9, 2019.

6957 (2) Section ~~59-1-213.2~~ is repealed on May 9, 2019.

6958 (3) Subsection ~~59-1-405(1)(g)~~ is repealed on May 9, 2019.

6959 (4) Subsection ~~59-1-405(2)(b)~~ is repealed on May 9, 2019.

6960 ~~[(5) Subsection 59-2-924.2(9) is repealed on December 31, 2017.]~~

6961 ~~[(6)]~~ (5) Section ~~59-7-618~~ is repealed July 1, 2020.

6962 ~~[(7)]~~ (6) Section ~~59-9-102.5~~ is repealed December 31, 2020.

6963 ~~[(8)]~~ (7) Section ~~59-10-1033~~ is repealed July 1, 2020.

6964 ~~[(9)]~~ (8) Subsection ~~59-12-2219(13)~~ is repealed on June 30, 2020.

6965 ~~[(10)]~~ (9) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January
6966 1, 2023.

6967 Section 68. Section **63I-1-262** is amended to read:

6968 **63I-1-262. Repeal dates, Title 62A.**

6969 (1) Section ~~62A-4a-213~~ is repealed July 1, 2019.

6970 (2) Section ~~62A-4a-202.9~~ is repealed December 31, 2019.

6971 (3) Subsection ~~62A-15-1101~~~~[(5)]~~~~[(7)]~~ is repealed July 1, 2018.

6972 Section 69. Section **63I-2-219** is amended to read:

6973 **63I-2-219. Repeal dates -- Title 19.**

6974 [~~(1) Subsection 19-1-403(2)(c)(i), the language that states "minus the amount of any~~
6975 ~~tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.]~~

6976 [~~(2) Subsection 19-1-403(2)(c)(ii), the language that states "minus the amount of any~~
6977 ~~tax credit claimed under Section 59-7-605 or 59-10-1009" is repealed on January 1, 2017.]~~

6978 Section 70. Section **63I-2-226** is amended to read:

6979 **63I-2-226. Repeal dates -- Title 26.**

6980 (1) Section ~~26-8a-107~~ is repealed July 1, 2019.

6981 [~~(2) Subsections 26-10-12(2) and (4) are repealed July 1, 2017.]~~

6982 [~~(3)~~ (2) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance
6983 Program, is repealed July 1, 2027.

6984 [~~(4)~~ (3) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.

6985 Section 71. Section **63I-2-234** is amended to read:

6986 **63I-2-234. Repeal dates -- Title 34A.**

6987 [~~Section 34A-2-107.1 is repealed November 30, 2017.]~~

6988 Section 72. Section **63I-2-236** is amended to read:

6989 **63I-2-236. Repeal dates -- Title 36.**

6990 [~~Section 36-29-102 is repealed July 1, 2016.]~~

6991 Section 73. Section **63I-2-248** is amended to read:

6992 **63I-2-248. Repeal dates -- Title 48.**

6993 [~~(1) Title 48, Chapter 1, General and Limited Liability Partnerships, is repealed~~
6994 ~~January 1, 2016.]~~

6995 [~~(2) Title 48, Chapter 2a, Utah Revised Uniform Limited Partnership Act, is repealed~~
6996 ~~January 1, 2016.]~~

6997 [~~(3) Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, is repealed~~
6998 ~~January 1, 2016.]~~

6999 Section 74. Section **63I-2-249** is amended to read:

7000 **63I-2-249. Repeal dates -- Title 49.**

7001 [~~Section 49-20-412 is repealed January 1, 2016.]~~

- 7002 Section 75. Section **63I-2-253** is amended to read:
- 7003 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**
- 7004 [~~(1)~~ Section **53A-1-403.5** is repealed July 1, 2017.]
- 7005 [~~(2)~~ Section **53A-1-411** is repealed July 1, 2017.]
- 7006 [~~(3)~~ (1) Section **53A-1-415** is repealed July 1, 2019.
- 7007 [~~(4)~~ (2) Section **53A-1-709** is repealed July 1, 2020.
- 7008 [~~(5)~~ (3) Subsection **53A-1-1207(3)(b)(ii)(B)** is repealed July 1, 2020.
- 7009 [~~(6)~~ (4) Section **53A-1-1208** is repealed July 1, 2020.
- 7010 [~~(7)~~ Subsection **53A-1a-513(4)** is repealed July 1, 2017.]
- 7011 [~~(8)~~ Title **53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program**, is
- 7012 repealed July 1, 2017.]
- 7013 [~~(9)~~ (5) Section **53A-24-601** is repealed January 1, 2018.
- 7014 [~~(10)~~ (6) Section **53A-24-602** is repealed July 1, 2018.
- 7015 [~~(11)~~ (7) (a) Subsections **53B-2a-103(2)** and (4) are repealed July 1, 2019.
- 7016 (b) When repealing Subsections **53B-2a-103(2)** and (4), the Office of Legislative
- 7017 Research and General Counsel shall, in addition to its authority under Subsection **36-12-12(3)**,
- 7018 make necessary changes to subsection numbering and cross references.
- 7019 [~~(12)~~ Subsections **53B-7-101(2)(b)(iii)(A)** and (3) are repealed January 1, 2018.]
- 7020 [~~(13)~~ (8) (a) Subsection **53B-7-705(6)(b)(ii)(A)**, the language that states "Except as
- 7021 provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.
- 7022 (b) Subsection **53B-7-705(6)(b)(ii)(B)** is repealed July 1, 2021.
- 7023 [~~(14)~~ (9) (a) Subsection **53B-7-707(4)(a)(ii)**, the language that states "Except as
- 7024 provided in Subsection (4)(b)," is repealed July 1, 2021.
- 7025 (b) Subsection **53B-7-707(4)(b)** is repealed July 1, 2021.
- 7026 [~~(15)~~ (10) (a) The following sections are repealed on July 1, 2023:
- 7027 (i) Section **53B-8-202**;
- 7028 (ii) Section **53B-8-203**;
- 7029 (iii) Section **53B-8-204**; and

7030 (iv) Section 53B-8-205.

7031 (b) (i) Subsection 53B-8-201(2) is repealed on July 1, 2023.

7032 (ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and
7033 General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make
7034 necessary changes to subsection numbering and cross references.

7035 [(16)] (11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project,
7036 is repealed July 1, 2023.

7037 Section 76. Section 63I-2-278 is amended to read:

7038 **63I-2-278. Repeal dates, Title 78A and Title 78B.**

7039 [Title 78B, Chapter 3, Part 9, Expedited Jury Trial Act, is repealed January 1, 2017.]

7040 Section 77. Section 63N-2-104 is amended to read:

7041 **63N-2-104. Creation of economic development zones -- Tax credits -- Assignment**
7042 **of tax credit.**

7043 (1) The office, with advice from the board, may create an economic development zone
7044 in the state if the following requirements are satisfied:

7045 (a) the area is zoned commercial, industrial, manufacturing, business park, research
7046 park, or other appropriate business related use in a community-approved master plan;

7047 (b) the request to create a development zone has first been approved by an appropriate
7048 local government entity; and

7049 (c) local incentives have been or will be committed to be provided within the area.

7050 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
7051 the office shall make rules establishing the requirements for a business entity or local
7052 government entity to qualify for a tax credit for a new commercial project in a development
7053 zone under this part.

7054 (b) The office shall ensure that the requirements described in Subsection (2)(a) include
7055 the following:

7056 (i) the new commercial project is within the development zone;

7057 (ii) the new commercial project includes direct investment within the geographic

7058 boundaries of the development zone;

7059 (iii) the new commercial project brings new incremental jobs to Utah;

7060 (iv) the new commercial project includes the creation of high paying jobs in the state,

7061 significant capital investment in the state, or significant purchases from vendors, contractors, or

7062 service providers in the state, or a combination of these three economic factors;

7063 (v) the new commercial project generates new state revenues; and

7064 (vi) a business entity, a local government entity, or a community reinvestment agency

7065 to which a local government entity assigns a tax credit under this section meets the

7066 requirements of Section [63N-2-105](#).

7067 (3) (a) The office, after consultation with the board, may enter into a written agreement

7068 with a business entity or local government entity authorizing a tax credit to the business entity

7069 or local government entity if the business entity or local government entity meets the

7070 requirements described in this section.

7071 (b) (i) With respect to a new commercial project, the office may authorize a tax credit

7072 to a business entity or a local government entity, but not both.

7073 (ii) In determining whether to authorize a tax credit with respect to a new commercial

7074 project to a business entity or a local government entity, the office shall authorize the tax credit

7075 in a manner that the office determines will result in providing the most effective incentive for

7076 the new commercial project.

7077 (c) (i) Except as provided in Subsection (3)(c)(ii), the office may not authorize or

7078 commit to authorize a tax credit that exceeds:

7079 (A) 50% of the new state revenues from the new commercial project in any given year;

7080 or

7081 (B) 30% of the new state revenues from the new commercial project over the lesser of

7082 the life of a new commercial project or 20 years.

7083 (ii) If the eligible business entity makes capital expenditures in the state of

7084 \$1,500,000,000 or more associated with a new commercial project, the office may:

7085 (A) authorize or commit to authorize a tax credit not exceeding 60% of new state

7086 revenues over the lesser of the life of the project or 20 years, if the other requirements of this
7087 part are met;

7088 (B) establish the year that state revenues and incremental jobs baseline data are
7089 measured for purposes of an incentive under this Subsection (3)(c)(ii); and

7090 (C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive
7091 previously granted under Subsection (3)(c)(i) that is based on the baseline measurements
7092 described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to
7093 authorize a tax credit of more than 60% of new state revenues in any one year.

7094 (d) (i) A local government entity may by resolution assign a tax credit authorized by
7095 the office to a community reinvestment agency.

7096 (ii) The local government entity shall provide a copy of the resolution described in
7097 Subsection (3)(d)(i) to the office.

7098 (iii) If a local government entity assigns a tax credit to a community reinvestment
7099 agency, the written agreement described in Subsection (3)(a) shall:

7100 (A) be between the office, the local government entity, and the community
7101 reinvestment agency;

7102 (B) establish the obligations of the local government entity and the community
7103 reinvestment agency; and

7104 (C) establish the extent to which any of the local government entity's obligations are
7105 transferred to the community reinvestment agency.

7106 (iv) If a local government entity assigns a tax credit to a community reinvestment
7107 agency:

7108 (A) the community reinvestment agency shall retain records as described in Subsection
7109 (4)(d); and

7110 (B) a tax credit certificate issued in accordance with Section [~~63N-2-106~~] [63N-2-105](#)
7111 shall list the community reinvestment agency as the named applicant.

7112 (4) The office shall ensure that the written agreement described in Subsection (3):

7113 (a) specifies the requirements that the business entity or local government entity shall

7114 meet to qualify for a tax credit under this part;

7115 (b) specifies the maximum amount of tax credit that the business entity or local
7116 government entity may be authorized for a taxable year and over the life of the new commercial
7117 project;

7118 (c) establishes the length of time the business entity or local government entity may
7119 claim a tax credit;

7120 (d) requires the business entity or local government entity to retain records supporting a
7121 claim for a tax credit for at least four years after the business entity or local government entity
7122 claims a tax credit under this part; and

7123 (e) requires the business entity or local government entity to submit to audits for
7124 verification of the tax credit claimed.

7125 Section 78. Section **67-4a-501** is amended to read:

7126 **67-4a-501. Notice to apparent owner by holder.**

7127 (1) Subject to [~~Subsections~~] Subsection (2) [~~and (3)~~], the holder of property presumed
7128 abandoned shall send to the apparent owner notice by first-class United States mail that
7129 complies with Section [67-4a-502](#) in a format acceptable to the administrator not more than 180
7130 days nor less than 60 days before filing the report under Section [67-4a-401](#) if:

7131 (a) the holder has in the holder's records an address for the apparent owner that the
7132 holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class
7133 United States mail to the apparent owner; and

7134 (b) the value of the property is \$50 or more.

7135 (2) If an apparent owner has consented to receive electronic mail delivery from the
7136 holder, the holder shall send the notice described in Subsection (1) both by first-class United
7137 States mail to the apparent owner's last-known mailing address and by electronic mail, unless
7138 the holder believes that the apparent owner's electronic mail address is invalid.

7139 Section 79. Section **70A-2-311** is amended to read:

7140 **70A-2-311. Options and cooperation respecting performance.**

7141 (1) An agreement for sale which is otherwise sufficiently definite [~~(Subsection (3)) of~~

7142 ~~Section 70A-2-204~~] to be a contract under Subsection 70A-2-204(3) is not made invalid by the
7143 fact that it leaves particulars of performance to be specified by one of the parties. Any such
7144 specification must be made in good faith and within limits set by commercial reasonableness.

7145 (2) Unless otherwise agreed, specifications relating to assortment of the goods are at
7146 the buyer's option, and except as otherwise provided in Subsections 70A-2-319(1)(c) and (3),
7147 specifications or arrangements relating to shipment are at the seller's option.

7148 (3) Where such specification would materially affect the other party's performance but
7149 is not seasonably made or where one party's cooperation is necessary to the agreed performance
7150 of the other but is not seasonably forthcoming, the other party in addition to all other remedies:

7151 (a) is excused for any resulting delay in his own performance; and

7152 (b) may also either proceed to perform in any reasonable manner or after the time for a
7153 material part of his own performance treat the failure to specify or to cooperate as a breach by
7154 failure to deliver or accept the goods.

7155 Section 80. Section **70A-2-402** is amended to read:

7156 **70A-2-402. Rights of seller's creditors against sold goods.**

7157 (1) Except as provided in Subsections (2) and (3), rights of unsecured creditors of the
7158 seller with respect to goods which have been identified to a contract for sale are subject to the
7159 buyer's rights to recover the goods under [~~this chapter (Sections 70A-2-502 and 70A-2-716)]~~
7160 Section 70A-2-502 or 70A-2-716.

7161 (2) A creditor of the seller may treat a sale or an identification of goods to a contract
7162 for sale as void if as against him a retention of possession by the seller is fraudulent under any
7163 rule of law of the state where the goods are situated, except that retention of possession in good
7164 faith and current course of trade by a merchant-seller for a commercially reasonable time after
7165 a sale or identification is not fraudulent.

7166 (3) Nothing in this chapter shall be deemed to impair the rights of creditors of the
7167 seller:

7168 (a) under the provisions of [~~the chapter on Secured Transactions (Chapter 9a, Uniform~~
7169 Commercial Code - Secured Transactions~~]~~]; or

7170 (b) where identification to the contract or delivery is made not in current course of
7171 trade but in satisfaction of or as security for a preexisting claim for money, security or the like
7172 and is made under circumstances which under any rule of law of the state where the goods are
7173 situated would apart from this chapter constitute the transaction a voidable transaction or
7174 voidable preference.

7175 Section 81. Section **70A-2-601** is amended to read:

7176 **70A-2-601. Buyer's rights on improper delivery.**

7177 Subject to the provisions of [~~this chapter on breach in installment contracts (Section~~
7178 ~~70A-2-612)] Section 70A-2-612, and unless otherwise agreed under [~~the sections on~~
7179 ~~contractual limitations of remedy (Sections 70A-2-718 and 70A-2-719)] Sections 70A-2-718
7180 and 70A-2-719, if the goods or the tender of delivery fail in any respect to conform to the
7181 contract, the buyer may:~~~~

- 7182 (1) reject the whole;
7183 (2) accept the whole; or
7184 (3) accept any commercial unit or units and reject the rest.

7185 Section 82. Section **70A-2-610** is amended to read:

7186 **70A-2-610. Anticipatory repudiation.**

7187 When either party repudiates the contract with respect to a performance not yet due the
7188 loss of which will substantially impair the value of the contract to the other, the aggrieved party
7189 may:

- 7190 (1) for a commercially reasonable time await performance by the repudiating party;
7191 (2) resort to any remedy for breach [~~under~~ Section 70A-2-703 or Section
7192 70A-2-711], even though he has notified the repudiating party that he would await the latter's
7193 performance and has urged retraction; and
7194 (3) in either case suspend his own performance or proceed in accordance with the
7195 provisions of this chapter on the seller's right to identify goods to the contract notwithstanding
7196 breach or to salvage unfinished goods [~~under~~ Section 70A-2-704].

7197 Section 83. Section **72-2-118** is amended to read:

7198 **72-2-118. Centennial Highway Fund.**

7199 (1) There is created a capital projects fund entitled the Centennial Highway Fund
7200 within the Transportation Investment Fund of 2005 created by Section 72-2-124.

7201 (2) The account consists of money generated from the following revenue sources:

7202 (a) any voluntary contributions received for the construction, reconstruction, or
7203 renovation of state or federal highways; and

7204 (b) appropriations made to the fund by the Legislature.

7205 (3) (a) The fund shall earn interest.

7206 (b) All interest earned on fund money shall be deposited into the fund.

7207 (4) The executive director may use fund money, as prioritized by the Transportation
7208 Commission, only to pay the costs of construction, reconstruction, or renovation to state and
7209 federal highways.

7210 (5) When the highway general obligation bonds have been paid off and the highway
7211 projects completed that are intended to be paid from revenues deposited in the account as
7212 determined by the Executive Appropriations Committee under Subsection (6)~~(d)~~(c), the
7213 Division of Finance shall transfer any existing balance in the account into the Transportation
7214 Investment Fund of 2005 created by Section 72-2-124.

7215 (6) (a) The Division of Finance shall monitor the highway general obligation bonds
7216 that are being paid from revenues deposited in the fund.

7217 (b) The department shall monitor the highway construction, reconstruction, or
7218 renovation projects that are being paid from revenues deposited in the fund.

7219 (c) The department shall notify the State Tax Commission and the Division of Finance
7220 when:

7221 (i) all highway general obligation bonds that are intended to be paid from revenues
7222 deposited in the fund have been paid off; and

7223 (ii) all highway projects that are intended to be paid from revenues deposited in the
7224 account have been completed.

7225 Section 84. Section 75-7-1011 is amended to read:

7226 **75-7-1011. Interest as general partner.**

7227 (1) Except as otherwise provided in Subsection (3) or unless personal liability is
 7228 imposed in the contract, a trustee who holds an interest as a general partner in a general or
 7229 limited partnership is not personally liable on a contract entered into by the partnership after
 7230 the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in
 7231 a statement previously filed pursuant to [~~Title 48, Chapter 2a, Utah Revised Uniform Limited~~
 7232 ~~Partnership Act, or~~] Title 48, Chapter 2e, Utah Uniform Limited Partnership Act[~~, as~~
 7233 appropriate pursuant to Section ~~48-2c-1205~~].

7234 (2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a
 7235 general partner is not personally liable for torts committed by the partnership or for obligations
 7236 arising from ownership or control of the interest unless the trustee is personally at fault.

7237 (3) The immunity provided by this section does not apply if an interest in the
 7238 partnership is held by the trustee in a capacity other than that of trustee or is held by the
 7239 trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse
 7240 of any of them.

7241 (4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is
 7242 personally liable for contracts and other obligations of the partnership as if the settlor were a
 7243 general partner.

7244 Section 85. Section ~~77-7-15~~ is amended to read:

7245 **77-7-15. Authority of peace officer to stop and question suspect -- Grounds.**

7246 A peace officer may stop any person in a public place when [~~he~~] the officer has a
 7247 reasonable suspicion to believe [~~he~~] the person has committed or is in the act of committing or
 7248 is attempting to commit a public offense and may demand [~~his~~] the person's name, address, and
 7249 an explanation of [~~his~~] the person's actions.

7250 Section 86. Section ~~77-10a-13~~ is amended to read:

7251 **77-10a-13. Location -- Who may be present -- Witnesses -- Witnesses who are**
 7252 **subjects -- Evidence -- Contempt -- Notice -- Record of proceedings -- Disclosure.**

7253 (1) The managing judge shall designate the place where the grand jury meets. The

7254 grand jury may, upon request and with the permission of the managing judge, meet and conduct
7255 business any place within the state. Subject to the approval of the managing judge the grand
7256 jury shall determine the times at which it meets.

7257 (2) (a) Attorneys representing the state, special prosecutors appointed under Section
7258 77-10a-12, the witness under examination, interpreters when needed, counsel for a witness, and
7259 a court reporter or operator of a recording device to record the proceedings may be present
7260 while the grand jury is in session.

7261 (b) No person other than the jurors may be present while the grand jury is deliberating.

7262 (3) (a) The attorneys representing the state and the special prosecutors may subpoena
7263 witnesses to appear before the grand jury and may subpoena evidence in the name of the grand
7264 jury without the prior approval or consent of the grand jury or the court. The jury may request
7265 that other witnesses or evidence be subpoenaed.

7266 (b) Subpoenas may be issued in the name of the grand jury to any person located within
7267 the state and for any evidence located within the state or as otherwise provided by law.

7268 (c) Except as provided in Subsection (3)(d), a subpoena requiring a minor, who is a
7269 victim of a crime, to testify before a grand jury may not be served less than 72 hours before the
7270 victim is required to testify.

7271 (d) A subpoena may be served upon a minor less than 72 hours before the minor is
7272 required to testify if the managing judge makes a factual finding that the minor was
7273 intentionally concealed to prevent service or that a shorter period is reasonably necessary to
7274 prevent:

7275 (i) a risk to the minor's safety;

7276 (ii) the concealment or removal of the minor from the jurisdiction;

7277 (iii) intimidation or coercion of the minor or a family member of the minor; or

7278 (iv) undue influence on the minor regarding the minor's testimony.

7279 (e) The service requirement in Subsection (3)(c) may be asserted only by or on behalf
7280 of the minor and is not a basis for invalidation of the minor's testimony or any indictment
7281 issued by the grand jury.

7282 (f) The service requirement of Subsection (3)(d) may be asserted by a parent or legal
7283 guardian of the minor on the minor's behalf.

7284 (g) If the managing judge finds it necessary to prevent any of the actions enumerated in
7285 Subsections (3)(d)(i) through (iv) or to otherwise protect the minor, the judge may appoint a
7286 guardian ad litem to receive service on behalf of the minor, to represent the minor, and to
7287 protect the interests of the minor.

7288 (h) If the minor served under Subsection (3)(d)[;] has no parent, legal guardian, or
7289 guardian ad litem with whom to confer prior to the grand jury hearing, the managing judge
7290 shall appoint legal counsel to represent the minor at the hearing.

7291 (i) For any minor served with a subpoena under this section, attorneys representing the
7292 state, or special prosecutors appointed under Section 77-10a-12, shall interview and prepare the
7293 minor in the presence of the minor's parent or legal guardian and their attorney, or a guardian
7294 ad litem at least 24 hours prior to the time the minor is required to testify. The provisions of
7295 this subsection requiring the presence of the minor's parent do not apply if:

7296 (i) the parent is the subject of the grand jury investigation; or

7297 (ii) the parent is engaged in frustrating, or conspires with[;] another to frustrate, the
7298 protections and purposes of Subsection (3)(d).

7299 (j) The managing judge may enter any order necessary to secure compliance with any
7300 subpoena issued in the name of the grand jury.

7301 (4) (a) Any witness who appears before the grand jury shall be advised, by the attorney
7302 for the state or the special prosecutor, of his right to be represented by counsel.

7303 (b) A witness who is also a subject as defined in Section 77-10a-1 shall, at the time [he
7304 appears] of appearance as a witness, be advised:

7305 (i) of his right to be represented by counsel;

7306 (ii) that he is a subject;

7307 (iii) that he may claim his privilege against self-incrimination; and

7308 (iv) of the general scope of the grand jury's investigation.

7309 (c) A witness who is also a target as defined in Section 77-10a-1 shall, at the time [he

7310 ~~appears]~~ of appearance as a witness, be advised:

7311 (i) of his right to be represented by counsel;

7312 (ii) that he is a target;

7313 (iii) that he may claim his privilege against self-incrimination;

7314 (iv) that the attorney for the state, the special prosecutor, or the grand jury is in
7315 possession of substantial evidence linking him to the commission of a crime for which he could
7316 be charged; and

7317 (v) of the general nature of that charge and of the evidence that would support the
7318 charge.

7319 (d) This Subsection (4) does not require the attorney for the state, the special
7320 prosecutor, or the grand jury to disclose to any subject or target the names or identities of
7321 witnesses, sources of information, or informants, or disclose information in detail or in a
7322 fashion that would jeopardize or compromise any ongoing criminal investigation or endanger
7323 any person or the community.

7324 (5) (a) The grand jury shall receive evidence without regard for the formal rules of
7325 evidence, except the grand jury may receive hearsay evidence only under the same provisions
7326 and limitations that apply to preliminary hearings.

7327 (b) Any person, including a witness who has previously testified or produced books,
7328 records, documents, or other evidence, may present exculpatory evidence to the attorney
7329 representing the state or the special prosecutor and request that it be presented to the grand
7330 jury, or request to appear personally before the grand jury to testify or present evidence to that
7331 body. The attorney for the state or the special prosecutor shall forward the request to the grand
7332 jury.

7333 (c) When the attorney for the state or the special prosecutor is personally aware of
7334 substantial and competent evidence negating the guilt of a subject or target that might
7335 reasonably be expected to lead the grand jury not to indict, ~~he~~ the attorney or special
7336 prosecutor shall present or otherwise disclose the evidence to the grand jury before the grand
7337 jury is asked to indict that person.

7338 (6) (a) The managing judge has the contempt power and authority inherent in the court
7339 over which [~~he~~] the managing judge presides and as provided by statute.

7340 (b) When a witness in any proceeding before or ancillary to any grand jury appearance
7341 refuses to comply with an order from the managing judge to testify or provide other
7342 information, including any book, paper, document, record, recording, or other material without
7343 having a recognized privilege, the attorney for the state or special prosecutor may apply to the
7344 managing judge for an order directing the witness to show cause why [~~he~~] the witness should
7345 not be held in contempt.

7346 (c) After submission of the application and a hearing at which the witness is entitled to
7347 be represented by counsel, the managing judge may hold the witness in contempt and order that
7348 [~~he~~] the witness be confined, upon a finding that the refusal was not privileged.

7349 (d) A hearing may not be held under this part unless 72 [~~hours~~] hours' notice is given to
7350 the witness who has refused to comply with the order to testify or provide other information,
7351 except a witness may be given a shorter notice if the managing judge upon a showing of special
7352 need so orders.

7353 (e) Any confinement for refusal to comply with an order to testify or produce other
7354 information shall continue until the witness is willing to give the testimony or provide the
7355 information. A period of confinement may not exceed the term of the grand jury, including
7356 extensions, before which the refusal to comply with the order occurred. In any event the
7357 confinement may not exceed one year.

7358 (f) A person confined under this Subsection (6) for refusal to testify or provide other
7359 information concerning any transaction, set of transactions, event, or events may not be again
7360 confined under this Subsection (6) or for criminal contempt for a subsequent refusal to testify
7361 or provide other information concerning the same transaction, set of transactions, event, or
7362 events.

7363 (g) Any person confined under this section may be admitted to bail or released in
7364 accordance with local procedures pending the determination of an appeal taken by [~~him~~] the
7365 person from the order of [~~his~~] the person's confinement unless the appeal affirmatively appears

7366 to be frivolous or taken for delay. Any appeal from an order of confinement under this section
7367 shall be disposed of as soon as practicable, pursuant to an expedited schedule and in no event
7368 more than 30 days from the filing of the appeal.

7369 (7) (a) All proceedings, except when the grand jury is deliberating or voting, shall be
7370 recorded stenographically or by an electronic recording device. An unintentional failure of any
7371 recording to reproduce all or any portion of a proceeding does not affect the validity of any
7372 prosecution or indictment. The recording or reporter's notes or any transcript prepared from
7373 them shall remain in the custody or control of the attorney for the state or the special prosecutor
7374 unless otherwise ordered by the managing judge in a particular case.

7375 (b) A grand juror, an interpreter, a court reporter, an operator of a recording device, a
7376 typist who transcribes recorded testimony, an attorney for the state or special prosecutor, or any
7377 person to whom disclosure is made under the provisions of this section may not disclose
7378 matters occurring before the grand jury except as otherwise provided in this section. A
7379 knowing violation of this provision may be punished as a contempt of court.

7380 (c) Disclosure otherwise prohibited by this section of matters occurring before the
7381 grand jury, other than its deliberations and the vote of any grand juror, may be made to:

7382 (i) an attorney for the state or a special prosecutor for use in the performance of that
7383 attorney's duty; and

7384 (ii) government personnel, including those of state, local, and federal entities and
7385 agencies, as are considered necessary by the attorney for the state or special prosecutor to assist
7386 ~~him~~ the attorney in the performance of ~~his~~ the attorney's duty to enforce the state's criminal
7387 laws.

7388 (d) Any person to whom matters are disclosed under this section may not utilize that
7389 grand jury material for any purpose other than assisting the attorney for the state or the special
7390 prosecutor in performance of that attorney's duty to enforce the state's criminal laws. An
7391 attorney for the state or the special prosecutor shall promptly provide the managing judge with
7392 the names of the persons to whom the disclosure has been made and shall certify that the
7393 attorney has advised the person of ~~his~~ the person's obligation of secrecy under this section.

7394 (e) Disclosure otherwise prohibited by this section of matters occurring before the
7395 grand jury may also be made when:

7396 (i) directed by the managing judge or by any court before which the indictment that
7397 involves matters occurring before the grand jury that are subject to disclosure is to be tried,
7398 preliminary to or in connection with a judicial proceeding;

7399 (ii) permitted by the managing judge at the request of the defendant, upon a showing
7400 that grounds may exist for a motion to dismiss the indictment because of matters occurring
7401 before the grand jury;

7402 (iii) the disclosure is made by an attorney for the state or the special prosecutor to
7403 another state or local grand jury or a federal grand jury;

7404 (iv) permitted by the managing judge at the request of an attorney for the state or the
7405 special prosecutor, upon a showing that the matters may disclose a violation of federal criminal
7406 law, to an appropriate official of the federal government for the purpose of enforcing federal
7407 law; or

7408 (v) showing of special need is made and the managing judge is satisfied that disclosure
7409 of the information or matters is essential for the preparation of a defense.

7410 (f) When the matters are transcripts of testimony given by witnesses[;] the state or
7411 special prosecutor intends to call in the state's case in chief in any trial upon an indictment
7412 returned by the grand jury before which the witnesses testified, the attorney for the state or the
7413 special prosecutor shall, no later than 30 days before trial, provide the defendant with access to
7414 the transcripts. The attorney for the state or the special prosecutor shall at the same time
7415 provide the defendant with access to all exculpatory evidence presented to the grand jury prior
7416 to indictment.

7417 (g) When the managing judge orders disclosure of matters occurring before the grand
7418 jury, disclosure shall be made in a manner, at a time, and under conditions the managing judge
7419 directs.

7420 (h) A petition for disclosure made under Subsection (7)(e)(ii) shall be filed with the
7421 managing judge. Unless the hearing is ex parte, the petitioner shall serve written notice upon

7422 the attorney for the state or the special prosecutor, the parties to the judicial proceeding if
7423 disclosure is sought in connection with the proceeding, and other persons as the managing
7424 judge directs. The managing judge shall afford those persons a reasonable opportunity to
7425 appear and be heard.

7426 (8) Records, orders, and subpoenas relating to grand jury proceedings shall be kept
7427 under seal to the extent and so long as necessary to prevent disclosure of matters occurring
7428 before the grand jury other than as provided in this section.

7429 (9) Subject to any right to an open hearing in contempt proceedings, the managing
7430 judge shall order a hearing on matters affecting a grand jury proceeding to be closed to the
7431 extent necessary to prevent disclosure of matters occurring before a grand jury.

7432 Section 87. Section **77-15a-104** is amended to read:

7433 **77-15a-104. Hearing -- Notice -- Stay of proceeding -- Examinations of defendant**
7434 **-- Scope of examination -- Report -- Procedures.**

7435 (1) (a) If a defendant proposes to offer evidence concerning or argue that he qualifies
7436 for an exemption from the death penalty under Subsection **77-15a-101**(1) or (2), the defendant
7437 shall file and serve the prosecuting attorney with written notice of his intention as soon as
7438 practicable, but not fewer than 60 days before trial.

7439 (b) If the defendant wishes to claim the exemption provided in Subsection
7440 **77-15a-101**(2), the defendant shall file and serve the prosecuting attorney with written notice of
7441 his intention as soon as practicable, but not fewer than 60 days before trial.

7442 (2) When notice is given under Subsection (1), the court raises the issue, or a motion is
7443 filed regarding Section **77-15a-101**, the court may stay all proceedings in order to address the
7444 issue.

7445 (3) (a) The court shall order the Department of Human Services to appoint at least two
7446 mental health experts to examine the defendant and report to the court. The experts:

7447 (i) may not be involved in the current treatment of the defendant; and
7448 (ii) shall have expertise in [~~mental retardation~~] intellectual disability assessment.

7449 (b) Upon appointment of the experts, the defendant or other party as directed by the

7450 court shall provide information and materials to the examiners relevant to a determination of
7451 the defendant's [~~mental retardation~~] intellectual disability, including copies of the charging
7452 document, arrest or incident reports pertaining to the charged offense, known criminal history
7453 information, and known prior mental health evaluations and treatments.

7454 (c) The court may make the necessary orders to provide the information listed in
7455 Subsection (3)(b) to the examiners.

7456 (d) The court may provide in its order appointing the examiners that custodians of
7457 mental health records pertaining to the defendant shall provide those records to the examiners
7458 without the need for consent of the defendant or further order of the court.

7459 (e) Prior to examining the defendant, examiners shall specifically advise the defendant
7460 of the limits of confidentiality as provided under Section [77-15a-106](#).

7461 (4) During any examinations under Subsection (3), unless the court directs otherwise,
7462 the defendant shall be retained in the same custody or status he was in at the time the
7463 examination was ordered.

7464 (5) The experts shall in the conduct of their examinations and in their reports to the
7465 court consider and address:

7466 (a) whether the defendant is [~~mentally retarded~~] intellectually disabled as defined in
7467 Section [77-15a-102](#);

7468 (b) the degree of any [~~mental retardation~~] intellectual disability the expert finds to
7469 exist;

7470 (c) whether the defendant [~~has the mental deficiencies~~] is intellectually disabled as
7471 specified in Subsection [77-15a-101\(2\)](#); and

7472 (d) the degree of any [~~mental deficiencies~~] intellectual disability the expert finds to
7473 exist.

7474 (6) (a) The experts examining the defendant shall provide written reports to the court,
7475 the prosecution, and the defense within 60 days of the receipt of the court's order, unless the
7476 expert submits to the court a written request for additional time in accordance with Subsection
7477 (6)(c).

7478 (b) The reports shall provide to the court and to prosecution and defense counsel the
7479 examiners' written opinions concerning the [~~mental retardation~~] intellectual disability of the
7480 defendant.

7481 (c) If an examiner requests of the court additional time, the examiner shall provide the
7482 report to the court and counsel within 90 days from the receipt of the court's order unless, for
7483 good cause shown, the court authorizes an additional period of time to complete the
7484 examination and provide the report.

7485 (7) Any written report submitted by an expert shall:

7486 (a) identify the specific matters referred for evaluation;

7487 (b) describe the procedures, techniques, and tests used in the examination and the
7488 purpose or purposes for each;

7489 (c) state the expert's clinical observations, findings, and opinions; and

7490 (d) identify the sources of information used by the expert and present the basis for the
7491 expert's clinical findings and opinions.

7492 (8) Within 30 days after receipt of the report from the Department of Human Services,
7493 but not later than five days before hearing, or at any other time the court directs, the
7494 prosecuting attorney shall file and serve upon the defendant a notice of witnesses the
7495 prosecuting attorney proposes to call in rebuttal.

7496 (9) (a) Except pursuant to Section [77-15a-105](#), this chapter does not prevent any party
7497 from producing any other testimony as to the mental condition of the defendant.

7498 (b) Expert witnesses who are not appointed by the court are not entitled to
7499 compensation under Subsection (10).

7500 (10) (a) Expenses of examinations of the defendant ordered by the court under this
7501 section shall be paid by the Department of Human Services.

7502 (b) Travel expenses associated with any court-ordered examination that are incurred by
7503 the defendant shall be charged by the Department of Human Services to the county where
7504 prosecution is commenced.

7505 (11) (a) When the report is received, the court shall set a date for a hearing to

7506 determine if the exemption under Section 77-15a-101 applies. The hearing shall be held and
7507 the judge shall make the determination within a reasonable time prior to jury selection.

7508 (b) Prosecution and defense counsel may subpoena to testify at the hearing any person
7509 or organization appointed by the Department of Human Services to conduct the examination
7510 and any independent examiner.

7511 (c) The court may call any examiner to testify at the hearing who is not called by the
7512 parties. If the court calls an examiner, counsel for the parties may cross-examine that
7513 examiner.

7514 (12) (a) A defendant is presumed [~~to be not mentally retarded~~] not to be intellectually
7515 disabled unless the court, by a preponderance of the evidence, finds the defendant to be
7516 [~~mentally retarded~~] intellectually disabled. The burden of proof is upon the proponent of
7517 [~~mental retardation~~] intellectual disability at the hearing.

7518 (b) A finding of [~~mental retardation~~] intellectual disability does not operate as an
7519 adjudication of [~~mental retardation~~] intellectual disability for any purpose other than exempting
7520 the person from a sentence of death in the case before the court.

7521 (13) (a) The defendant is presumed not to possess the mental deficiencies listed in
7522 Subsection 77-15a-101(2) unless the court, by a preponderance of the evidence, finds that the
7523 defendant has significant subaverage general intellectual functioning that exists concurrently
7524 with significant deficiencies in adaptive functioning and that this functioning was manifested
7525 prior to age 22. The burden of proof is upon the proponent of that proposition.

7526 (b) If the court finds by a preponderance of the evidence that the defendant has
7527 significant subaverage general intellectual functioning that exists concurrently with significant
7528 deficiencies in adaptive functioning and that this functioning was manifested prior to age 22,
7529 then the burden is upon the state to establish that any confession by the defendant which the
7530 state intends to introduce into evidence is supported by substantial evidence independent of the
7531 confession.

7532 (14) (a) If the court finds the defendant [~~mentally retarded~~] intellectually disabled, it
7533 shall issue an order:

7534 (i) containing findings of fact and conclusions of law, and addressing each of the
7535 factors in Subsections (5)(a) and (b); and

7536 (ii) stating that the death penalty is not a sentencing option in the case before the court.

7537 (b) If the court finds by a preponderance of the evidence that the defendant possesses
7538 the mental deficiencies listed in Subsection 77-15a-101(2) and that the state fails to establish
7539 that any confession is supported by substantial evidence independent of the confession, the
7540 state may proceed with its case and:

7541 (i) introduce the confession into evidence, and the death penalty will not be a
7542 sentencing option in the case; or

7543 (ii) not introduce into evidence any confession or the fruits of a confession that the
7544 court has found is not supported by substantial evidence independent of the confession, and the
7545 death penalty will be a sentencing option in the case.

7546 (c) (i) A finding by the court regarding whether the defendant qualifies for an
7547 exemption under Section 77-15a-101 is a final determination of that issue for purposes of this
7548 chapter.

7549 (ii) The following questions may not be submitted to the jury by instruction, special
7550 verdict, argument, or other means:

7551 (A) whether the defendant is [~~mentally retarded~~] intellectually disabled for purposes of
7552 this chapter; and

7553 (B) whether the defendant possesses the mental deficiencies specified in Subsection
7554 77-15a-101(2).

7555 (iii) This chapter does not prevent the defendant from submitting evidence of
7556 [~~retardation~~] intellectual disability or other mental deficiency to establish a mental condition as
7557 a mitigating circumstance under Section 76-3-207.

7558 (15) A ruling by the court that the defendant is exempt from the death penalty may be
7559 appealed by the state pursuant to Section 77-18a-1.

7560 (16) Failure to comply with this section does not result in the dismissal of criminal
7561 charges.

7562 Section 88. Section **77-20-3.5** is amended to read:

7563 **77-20-3.5. Conditions for release after arrest for domestic violence and other**
7564 **offenses -- Jail release agreements -- Jail release court orders.**

7565 (1) As used in this section:

7566 (a) "Domestic violence" means the same as that term is defined in Section [77-36-1](#).

7567 (b) "Jail release agreement" means a written agreement described in Subsection
7568 [~~77-20-3.5~~] (3) that:

7569 (i) limits the contact an individual arrested for a qualifying offense may have with an
7570 alleged victim; and

7571 (ii) specifies other conditions of release from jail.

7572 (c) "Jail release court order" means a written court order issued in accordance with
7573 Subsection [~~77-20-3.5~~] (3) that:

7574 (i) limits the contact an individual arrested for a qualifying offense may have with an
7575 alleged victim; and

7576 (ii) specifies other conditions of release from jail.

7577 (d) "Minor" means an unemancipated individual who is younger than 18 years of age.

7578 (e) "Offense against a child or vulnerable adult" means the commission or attempted
7579 commission of an offense described in Section [76-5-109](#), [76-5-109.1](#), [76-5-110](#), or [76-5-111](#).

7580 (f) "Qualifying offense" means:

7581 (i) domestic violence;

7582 (ii) an offense against a child or vulnerable adult; or

7583 (iii) the commission or attempted commission of an offense described in Title 76,
7584 Chapter 5, Part 4, Sexual Offenses.

7585 (2) (a) Upon arrest for a qualifying offense and before the person is released on bail,
7586 recognizance, or otherwise, the person may not personally contact the alleged victim.

7587 (b) A person who violates Subsection (2)(a) is guilty of a class B misdemeanor.

7588 (3) (a) After a person is arrested for a qualifying offense, the person may not be
7589 released before:

7590 (i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or
7591 (ii) the person signs a jail release agreement in accordance with Subsection (3)(d)(i).
7592 (b) The arresting officer shall ensure that the information presented to the magistrate
7593 includes whether the alleged victim has made a waiver described in Subsection (6)(a).
7594 (c) If the magistrate determines there is probable cause to support the charge or charges
7595 of one or more qualifying offenses, the magistrate shall determine:
7596 (i) whether grounds exist to hold the arrested person without bail, in accordance with
7597 Section 77-20-1;
7598 (ii) if no grounds exist to hold the arrested person without bail, whether any release
7599 conditions, including electronic monitoring, are necessary to protect the alleged victim; or
7600 (iii) any bail that is required to guarantee the arrested person's subsequent appearance
7601 in court.
7602 (d) (i) The magistrate may not release a person arrested for a qualifying offense before
7603 the person's initial court appearance before the court with jurisdiction over the offense for
7604 which the person was arrested, unless the arrested person agrees in writing or the magistrate
7605 orders, as a release condition, that, until the arrested person appears at the initial court
7606 appearance, the arrested person will not:
7607 (A) have personal contact with the alleged victim;
7608 (B) threaten or harass the alleged victim; or
7609 (C) knowingly enter onto the premises of the alleged victim's residence or any premises
7610 temporarily occupied by the alleged victim.
7611 (ii) The magistrate shall schedule the appearance described in Subsection (3)(d)(i) to
7612 take place no more than 96 hours after the time of the arrest.
7613 (iii) The arrested person may make the appearance described in Subsection (3)(d)(i) by
7614 video if the arrested person is not released.
7615 (4) (a) If a person charged with a qualifying offense fails to appear at the time
7616 scheduled by the magistrate under Subsection (3)(d), the person shall comply with the release
7617 conditions described in Subsection (3)(d)(i) until the person makes an initial appearance.

7618 (b) If the prosecutor has not filed charges against a person who was arrested for a
7619 qualifying offense and who appears in court at the time scheduled by the magistrate under
7620 Subsection (3)(d), or by the court under Subsection (4)(b)(ii), the court:

7621 (i) may, upon the motion of the prosecutor and after allowing the person an opportunity
7622 to be heard on the motion, extend the release conditions described in Subsection (3)(d)(i) by no
7623 more than three court days; and

7624 (ii) if the court grants the motion described in Subsection (4)(b)(i), shall order the
7625 arrested person to appear at a time scheduled before the end of the granted extension.

7626 (5) Except as provided in Subsection (4) or otherwise ordered by a court, a jail release
7627 agreement or jail release court order expires at midnight after the arrested person's initial
7628 scheduled court appearance described in Subsection (3)(d)(i).

7629 (6) (a) After an arrest for a qualifying offense, an alleged victim who is not a minor
7630 may waive in writing the release conditions described in Subsection (3)(d)(i)(A) or (C). Upon
7631 waiver, those release conditions do not apply to the arrested person.

7632 (b) A court or magistrate may modify the release conditions described in Subsection
7633 (3)(d)(i), in writing or on the record, and only for good cause shown.

7634 (7) (a) When an arrested person is released in accordance with Subsection (3), the
7635 releasing agency shall:

7636 (i) notify the arresting law enforcement agency of the release, conditions of release, and
7637 any available information concerning the location of the alleged victim;

7638 (ii) make a reasonable effort to notify the alleged victim of the release; and

7639 (iii) before releasing the arrested person, give the arrested person a copy of the jail
7640 release agreement or the jail release court order.

7641 (b) (i) When a person arrested for domestic violence is released pursuant to Subsection
7642 (3) based on a written jail release agreement, the releasing agency shall transmit that
7643 information to the statewide domestic violence network described in Section [78B-7-113](#).

7644 (ii) When a person arrested for domestic violence is released pursuant to Subsections
7645 (3) through (5) based upon a jail release court order or if a written jail release agreement is

7646 modified pursuant to Subsection (6)(b), the court shall transmit that order to the statewide
7647 domestic violence network described in Section 78B-7-113.

7648 (c) This Subsection (7) does not create or increase liability of a law enforcement officer
7649 or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

7650 (8) (a) If a law enforcement officer has probable cause to believe that a person has
7651 violated a jail release agreement or jail release court order, the officer shall, without a warrant,
7652 arrest the person.

7653 (b) Any person who knowingly violates a jail release court order or jail release
7654 agreement executed pursuant to Subsection (3) is guilty as follows:

7655 (i) if the original arrest was for a felony, an offense under this section is a third degree
7656 felony; or

7657 (ii) if the original arrest was for a misdemeanor, an offense under this section is a class
7658 A misdemeanor.

7659 (c) City attorneys may prosecute class A misdemeanor violations under this section.

7660 (9) A person who is arrested for a qualifying offense that is a felony and released in
7661 accordance with this section may subsequently be held without bail if there is substantial
7662 evidence to support a new felony charge against the person.

7663 (10) At the time an arrest is made for a qualifying offense, the arresting officer shall
7664 provide the alleged victim with written notice containing:

7665 (a) the release conditions described in Subsections (3) through (5), and notice that the
7666 alleged perpetrator will not be released, before appearing before the court with jurisdiction over
7667 the offense for which the alleged perpetrator was arrested, unless:

7668 (i) the alleged perpetrator enters into a written agreement to comply with the release
7669 conditions; or

7670 (ii) the magistrate orders the release conditions;

7671 (b) notification of the penalties for violation of any jail release agreement or jail release
7672 court order;

7673 (c) notification that the alleged perpetrator is to personally appear in court on the next

7674 day the court is open for business after the day of the arrest;

7675 (d) the address of the appropriate court in the district or county in which the alleged
7676 victim resides;

7677 (e) the availability and effect of any waiver of the release conditions; and

7678 (f) information regarding the availability of and procedures for obtaining civil and
7679 criminal protective orders with or without the assistance of an attorney.

7680 (11) At the time an arrest is made for a qualifying offense, the arresting officer shall
7681 provide the alleged perpetrator with written notice containing:

7682 (a) notification that the alleged perpetrator may not contact the alleged victim before
7683 being released;

7684 (b) the release conditions described in Subsections (3) through (5) and notice that the
7685 alleged perpetrator will not be released, before appearing before the court with jurisdiction over
7686 the offense for which the alleged perpetrator was arrested, unless:

7687 (i) the alleged perpetrator enters into a written agreement to comply with the release
7688 conditions; or

7689 (ii) the magistrate orders the release conditions;

7690 (c) notification of the penalties for violation of any jail release agreement or jail release
7691 court order; and

7692 (d) notification that the alleged perpetrator is to personally appear in court on the next
7693 day the court is open for business after the day of the arrest.

7694 (12) (a) A pretrial or sentencing protective order supercedes a jail release agreement or
7695 jail release court order.

7696 (b) If a court dismisses the charges for the qualifying offense that gave rise to a jail
7697 release agreement or jail release court order, the court shall dismiss the jail release agreement
7698 or jail release court order.

7699 (13) In addition to the provisions of Subsections (3) through (12), because of the
7700 unique and highly emotional nature of domestic violence crimes, the high recidivism rate of
7701 violent offenders, and the demonstrated increased risk of continued acts of violence subsequent

7702 to the release of an offender who has been arrested for domestic violence, it is the finding of
7703 the Legislature that domestic violence crimes, as defined in Section 77-36-1, are crimes for
7704 which bail may be denied if there is substantial evidence to support the charge, and if the court
7705 finds by clear and convincing evidence that the alleged perpetrator would constitute a
7706 substantial danger to an alleged victim of domestic violence if released on bail.

7707 (14) The provisions of this section do not apply if the person arrested for the qualifying
7708 offense is a minor, unless the qualifying offense is domestic violence.

7709 Section 89. Section 77-20-9 is amended to read:

7710 **77-20-9. Disposition of forfeitures.**

7711 If by reason of the neglect of the defendant to appear, money deposited instead of bail
7712 or money paid by sureties on bail bond is forfeited and the forfeiture is not discharged or
7713 remitted, the clerk with whom it is deposited or paid shall, immediately after final adjournment
7714 of the court, pay over the money forfeited as follows:

7715 (1) the forfeited bail in cases in or appealed from district courts shall be distributed as
7716 provided in Section 78A-5-110;

7717 (2) the forfeited bail in cases in precinct justice courts or in municipal justice courts
7718 shall be distributed as provided in Sections 78A-7-120 and 78A-7-121;

7719 (3) the forfeited bail in cases in justice courts where the offense is not triable in that
7720 court shall be paid into the General Fund; and

7721 (4) the forfeited bail in cases not provided for in this section shall be paid 50% to the
7722 state treasurer and the remaining 50% to the county treasurer in the county in which the
7723 violation occurred or the forfeited bail is collected.

7724 Section 90. Section 77-23-210 is amended to read:

7725 **77-23-210. Force used in executing a search warrant -- When notice of authority**
7726 **is required as a prerequisite.**

7727 (1) (a) No later than July 1, 2015, any law enforcement agency that seeks a warrant
7728 under this section shall comply with guidelines and procedures which are, at a minimum, in
7729 accordance with state law and model guidelines and procedures recommended by the Utah

7730 Peace Officer Standards and Training Council created in Section 53-6-106.

7731 (b) Written policies adopted pursuant to this section[;] shall be subject to public
7732 disclosure and inspection, in accordance with Title 63G, Chapter 2, Government Records
7733 Access and Management Act.

7734 (2) When a search warrant has been issued authorizing entry into any building, room,
7735 conveyance, compartment, or other enclosure, the officer executing the warrant may enter:

7736 (a) if, after giving notice of the officer's authority and purpose, there is no response or
7737 the officer is not admitted with reasonable promptness; or

7738 (b) without notice of the officer's authority and purpose as provided in Subsection (3).

7739 (3) (a) The officer may enter without notice only if:

7740 (i) there is reasonable suspicion to believe that the notice will endanger the life or
7741 safety of the officer or another person;

7742 (ii) there is probable cause to believe that evidence may be easily or quickly destroyed;

7743 or

7744 (iii) the magistrate, having found probable cause based upon proof provided under
7745 oath[;] that the object of the search may be easily or quickly destroyed, or having found reason
7746 to believe that physical harm may result to any person if notice were given, has directed that the
7747 officer need not give notice of authority and purpose before entering the premises to be
7748 searched under the Rules of Criminal Procedure; or

7749 (iv) the officer physically observes and documents a previously unknown event or
7750 circumstance at the time the warrant is being executed which creates probable cause to believe
7751 the object of the search is being destroyed, or creates reasonable suspicion to believe that
7752 physical harm may result to any person if notice were given.

7753 (b) The officer shall identify himself or herself and state the purpose for entering the
7754 premises as soon as practicable after entering.

7755 (4) An officer executing a warrant under this section may use only that force which is
7756 reasonable and necessary to execute the warrant.

7757 (5) An officer executing a warrant under this section shall wear readily identifiable

7758 markings, including a badge and vest or clothing with a distinguishing label or other writing
7759 which indicates that he or she is a law enforcement officer.

7760 (6) (a) An officer executing a warrant under this section shall comply with the officer's
7761 employing agency's body worn camera policy when the officer is equipped with a body-worn
7762 camera.

7763 (b) The employing agency's policy regarding the use of body-worn cameras shall
7764 include a provision that an officer executing a warrant under this section shall wear a
7765 body-worn camera when a camera is available, except in exigent circumstances where it is not
7766 practicable to do so.

7767 (7) (a) The officer shall take reasonable precautions in execution of any search warrant
7768 to minimize the risks of unnecessarily confrontational or invasive methods which may result in
7769 harm to any person.

7770 (b) The officer shall minimize the risk of searching the wrong premises by verifying
7771 that the premises being searched is consistent with a particularized description in the search
7772 warrant, including such factors as the type of structure, the color, the address, and orientation
7773 of the target property in relation to nearby structures as is reasonably necessary.

7774 (8) Notwithstanding any provision in this chapter, a warrant authorizing forcible entry
7775 without prior announcement may not be issued under this section, solely for:

7776 (a) the alleged possession or use of a controlled substance; or

7777 (b) the alleged possession of drug paraphernalia as provided in Section 58-37a-3.

7778 Section 91. Section 77-30-8 is amended to read:

7779 **77-30-8. Execution of warrant of arrest.**

7780 Such warrant shall authorize the peace officer or other person to whom directed to
7781 arrest the accused at any time and any place where [~~he~~] the accused may be found within the
7782 state and to command the aid of all peace officers or other persons in the execution of the
7783 warrant, and to deliver the accused, subject to the provisions of this act, to the duly authorized
7784 agent of the demanding state.

7785 Section 92. Section 77-30-18 is amended to read:

7786 **77-30-18. Forfeiture of bail.**

7787 If the prisoner is admitted to bail and fails to appear and surrender [~~himself~~] according
7788 to the conditions of [~~his~~] the prisoner's bond, the judge or magistrate by proper order shall
7789 declare the bond forfeited and order [~~his~~] the prisoner's immediate arrest without warrant if [~~he~~
7790 ~~be~~] the prisoner is within this state. Recovery may be had on such bond in the name of the state
7791 as in the case of other bonds given by the accused in criminal proceedings within this state.

7792 Section 93. Section **77-30-25** is amended to read:

7793 **77-30-25. Person brought into state on extradition exempt from civil process --**
7794 **Waiver of extradition proceedings -- Nonwaiver by this state.**

7795 (1) A person brought into this state by or after waiver of extradition based on a
7796 criminal charge shall not be subject to service of personal process in civil actions arising out of
7797 the same facts as the criminal proceedings to answer which he is being or has been returned
7798 until he has been convicted in the criminal proceedings, or, if acquitted, until he has had
7799 reasonable opportunity to return to the state from which he was extradited.

7800 (2) (a) Any person arrested in this state charged with having committed any crime in
7801 another state or alleged to have escaped from confinement or broken the terms of his bail,
7802 probation or parole may waive the issuance and service of the warrant provided for in Sections
7803 [77-30-7](#) and [77-30-8](#), and all other procedure incidental to extradition proceedings, by
7804 executing or subscribing in the presence of a judge of any court of record within this state a
7805 writing which states that he consents to return to the demanding state; provided, before such
7806 waiver shall be executed or subscribed by such person it shall be the duty of such judge to
7807 inform such person of his rights to the issuance and service of a warrant of extradition and to
7808 obtain a writ of habeas corpus as provided for in Section [77-30-10](#).

7809 (b) If and when such consent has been duly executed it shall forthwith be forwarded to
7810 the office of the governor of this state and filed therein. The judge shall direct the officer
7811 having such person in custody to deliver forthwith such person to the duly accredited agent or
7812 agents of the demanding state and shall deliver or cause to be delivered to such agent or agents
7813 a copy of such consent; provided, nothing in this section shall be deemed to limit the rights of

7814 the accused person to return voluntarily and without formality to the demanding state, [~~or~~] nor
7815 shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers,
7816 rights, or duties of the officers of the demanding state or of this state.

7817 (3) Nothing in this chapter shall be deemed to constitute a waiver by this state of its
7818 right, power or privilege to try such demanded person for a crime committed within this state,
7819 or of its right, power or privilege to regain custody of such person by extradition proceedings or
7820 otherwise for the purpose of trial, sentence or punishment for any crime committed within this
7821 state, [~~or~~] nor shall any proceedings had under this chapter which result in or fail to result in
7822 extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any
7823 way whatsoever.

7824 Section 94. Section **77-32-603** is amended to read:

7825 **77-32-603. County and state obligations.**

7826 (1) (a) Except as provided in Subsection (1)(b), each participating county shall pay into
7827 the fund annually an amount calculated by multiplying the average of the percent of its
7828 population to the total population of all participating counties and of the percent its taxable
7829 value of the locally and centrally assessed property located [~~with~~] within that county to the total
7830 taxable value of the locally and centrally assessed property to all participating counties by the
7831 total fund assessment for that year to be paid by all participating counties as is determined by
7832 the board to be sufficient such that it is unlikely that a deficit will occur in the fund in any
7833 calendar year.

7834 (b) The fund minimum shall be equal to or greater than 50 cents per person of all
7835 counties participating.

7836 (c) The amount paid by the participating county pursuant to Subsection (1) shall be the
7837 total county obligation for payment of costs pursuant to Section **77-32-601**.

7838 (2) (a) After the first year of operation of the fund, any county that elects to initiate
7839 participation in the fund, or reestablish participation in the fund after participation was
7840 terminated, shall be required to make an equity payment in addition to the assessment provided
7841 in Subsection (1).

7842 (b) The equity payment shall be determined by the board and represent what the
7843 county's equity in the fund would be if the county had made assessments into the fund for each
7844 of the previous two years.

7845 (3) If the fund balance after contribution by the state and participating counties is
7846 insufficient to replenish the fund annually to at least \$250,000, the board by a majority vote
7847 may terminate the fund.

7848 (4) If the fund is terminated, all remaining funds shall continue to be administered and
7849 disbursed in accordance with the provision of this chapter until exhausted, at which time the
7850 fund shall cease to exist.

7851 (5) (a) If the fund runs a deficit during any calendar year, the state is responsible for the
7852 deficit.

7853 (b) In the calendar year following a deficit year, the board shall increase the assessment
7854 required by Subsection (1) by an amount at least equal to the deficit of the previous year, which
7855 combined amount becomes the base assessment until another deficit year occurs.

7856 (6) In any calendar year in which the fund runs a deficit, or is projected to run a deficit,
7857 the board shall request a supplemental appropriation to pay for the deficit from the Legislature
7858 in the following general session. The state shall pay any or all of the reasonable and necessary
7859 money for the deficit into the Indigent Capital Defense Trust Fund.

7860 Section 95. Section **77-32a-102** is amended to read:

7861 **77-32a-102. Creation of criminal judgment account receivable.**

7862 (1) At the time of sentencing or acceptance of a plea in abeyance, the court shall
7863 establish the criminal accounts receivable, as determined in this chapter including all amounts
7864 then owing, including, as applicable, fines, fees, surcharges, costs, restitution, and interest.

7865 (2) After creating the account receivable, the court:

7866 (a) shall, in the case of felonies where a prison sentence is imposed and not suspended,
7867 enter any unpaid criminal judgment account receivable as a civil judgment and transfer the
7868 responsibility for collecting the judgment to the Office of State Debt Collection;

7869 (b) may, in other cases, permit a defendant to pay the criminal judgment account

7870 receivable by a date certain or in installments; or

7871 (c) may, in other cases where the court finds that collection of the account by the court
7872 would not be feasible, enter any unpaid criminal judgment account receivable as a civil
7873 judgment and transfer the responsibility for collecting the judgement to the Office of State Debt
7874 Collection.

7875 (3) A court allowing installment payments does not limit the ability of a judgment
7876 creditor to pursue collection by any means allowable by law.

7877 (4) If the court makes restitution or another financial decision at a time after sentencing
7878 that increases the total amount owed in a case, the criminal accounts receivable balance shall
7879 be adjusted to include the new amounts determined by the court.

7880 (5) The court may modify the amount and number of any installment payments, as
7881 justice requires, at any time before the time for default as outlined in Subsection
7882 [77-32a-103\(2\)](#).

7883 (6) In the district court, delinquent accounts may incur [~~post judgment~~] postjudgment
7884 interest.

7885 Section 96. Section **77-38a-401** is amended to read:

7886 **77-38a-401. Entry of judgment -- Interest -- Civil actions -- Lien.**

7887 (1) Upon the court determining that a defendant owes restitution, the clerk of the court
7888 shall enter an order of complete restitution as defined in Section [77-38a-302](#) on the civil
7889 judgment docket and provide notice of the order to the parties.

7890 (2) The order shall be considered a legal judgment, enforceable under the Utah Rules
7891 of Civil Procedure. In addition, the department may, on behalf of the person in whose favor the
7892 restitution order is entered, enforce the restitution order as judgment creditor under the Utah
7893 Rules of Civil Procedure.

7894 (3) If the defendant fails to obey a court order for payment of restitution and the victim
7895 or department elects to pursue collection of the order by civil process, the victim shall be
7896 entitled to recover collection and reasonable attorney fees.

7897 (4) Notwithstanding Subsection [77-18-6\(1\)\(b\)](#)[~~(v)~~] and Sections [78B-2-311](#) and

7898 78B-5-202, a judgment ordering restitution when entered on the civil judgment docket shall
7899 have the same [affect] effect and is subject to the same rules as a judgment in a civil action and
7900 expires only upon payment in full, which includes applicable interest, collection fees, and
7901 attorney fees. Interest shall accrue on the amount ordered from the time of sentencing,
7902 including prejudgment interest. This Subsection (4) applies to all restitution judgments not
7903 paid in full on or before May 12, 2009.

7904 (5) The department shall make rules permitting the restitution payments to be credited
7905 to principal first and the remainder of payments credited to interest in accordance with Title
7906 63G, Chapter 3, Utah Administrative Rulemaking Act.

7907 Section 97. Section 77-41-103 is amended to read:

7908 **77-41-103. Department duties.**

7909 (1) The department, to assist in investigating kidnapping and sex-related crimes, and in
7910 apprehending offenders, shall:

7911 (a) develop and operate a system to collect, analyze, maintain, and disseminate
7912 information on offenders and sex and kidnap offenses;

7913 (b) make information listed in Subsection 77-41-110(4) available to the public; and

7914 (c) share information provided by an offender under this chapter that may not be made
7915 available to the public under Subsection 77-41-110(4), but only:

7916 (i) for the purposes under this chapter; or

7917 (ii) in accordance with Section 63G-2-206.

7918 (2) Any law enforcement agency shall, in the manner prescribed by the department,
7919 inform the department of:

7920 (a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(9)
7921 or (17), within three business days; and

7922 (b) the arrest of a person suspected of any of the offenses listed in Subsection
7923 77-41-102(9) or (17), within five business days.

7924 (3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(9)
7925 or (17), the convicting court shall within three business days forward a signed copy of the

7926 judgment and sentence to the Sex and Kidnap Offender Registry office within the Department
7927 of Corrections.

7928 (4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a
7929 conviction for any offense listed in Subsection 77-41-102(9) or (17), the court shall, within
7930 three business days, forward a signed copy of the order to the Sex and Kidnap Offender
7931 Registry office within the Department of Corrections.

7932 (5) The department may intervene in any matter, including a criminal action, where the
7933 matter purports to affect a person's lawfully entered registration requirement.

7934 (6) The department shall:

7935 (a) provide the following additional information when available:

7936 (i) the crimes the offender has been convicted of or adjudicated delinquent for;

7937 (ii) a description of the offender's primary and secondary targets; and

7938 (iii) any other relevant identifying information as determined by the department;

7939 (b) maintain the Sex Offender and Kidnap Offender Notification and Registration
7940 website; and

7941 (c) ensure that the registration information collected regarding an offender's enrollment
7942 or employment at an educational institution is:

7943 (i) (A) promptly made available to any law enforcement agency that has jurisdiction
7944 where the institution is located if the educational institution is an institution of higher
7945 education; or

7946 (B) promptly made available to the district superintendent of the school district where
7947 the offender is [~~enrolled~~] employed if the educational institution is an institution of primary
7948 education; and

7949 (ii) entered into the appropriate state records or data system.