

## SB0096S05 compared with SB0096S04

~~{deleted text}~~ shows text that was in SB0096S04 but was deleted in SB0096S05.

Inserted text shows text that was not in SB0096S04 but was inserted into SB0096S05.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative ~~{James A}~~Brian S. ~~{Dunnigan}~~King proposes the following substitute bill:

### MEDICAID EXPANSION ADJUSTMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Allen M. Christensen**

House Sponsor: James A. Dunnigan

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#### LONG TITLE

##### General Description:

This bill amends provisions relating to the state Medicaid program and the state sales tax.

##### Highlighted Provisions:

This bill:

- ▶ makes changes to eligibility for and administration of the state Medicaid program;
- ▶ directs the Department of Health to continue to seek approval from the federal government to implement a Medicaid expansion;
- ▶ directs the Department of Health to seek approval from the federal government to expand eligibility for the Medicaid program to individuals whose income is below 100% of the federal poverty level in a manner that:
  - incorporates a per capita cap on federal reimbursement;

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- limits presumptive eligibility;
- imposes a lock-out period for individuals who violate certain program requirements;
- gives enrollees continuous eligibility for a period of up to 12 months;
- allows Medicaid funds to be used for housing supports for certain enrollees; and
- permits the state to limit enrollment;
- ▶ if the federal government does not approve an expansion in the manner requested by the department, directs the department to expand eligibility for the Medicaid program to individuals whose income is below 138% of the federal poverty level, with certain cost controls;
- ▶ if the department expands eligibility for the Medicaid program to individuals whose income is below 138% of the federal poverty level and the cost of the expansion exceeds the amounts appropriated:
  - permits the Department of Health to seek additional waivers to control costs of the Medicaid expansion;
  - permits the Department of Health to reduce certain optional Medicaid services; and
  - directs a cut of up to 10% of certain agency appropriations sufficient to cover the costs of the expansion;
- ▶ amends provisions related to various hospital assessments;
- ▶ creates a new work effort requirement for certain individuals who claim a capital gains tax subsidy;
- ▶ amends provisions related to the state sales tax; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

This bill appropriates in fiscal year 2019:

- ▶ to Department of Health - Medicaid Services, as a one-time appropriation:
  - from the General Fund, One-time, (\$14,900,000).
- ▶ to Department of Health - Medicaid Expansion Fund, as a one-time appropriation:
  - from the General Fund, One-time, \$38,200,000; and
  - from the General Fund Restricted - Medicaid Restricted Account, One-time,

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\$1,200,000.

This bill appropriates in fiscal year 2020:

- ▶ to Department of Health - Children's Health Insurance Program, as a One-time appropriation:
  - from the General Fund, One-time, (\$18,663,900).
- ▶ to Department of Health - Medicaid Services, as a One-time appropriation:
  - from the General Fund Restricted - Medicaid Restricted Account, One-time, \$16,800,000.
- ▶ to Department of Health - Medicaid Expansion Fund, as an ongoing appropriation:
  - from the General Fund, \$15,000,000.

### **Other Special Clauses:**

This bill provides a special effective date.

### **Utah Code Sections Affected:**

AMENDS:

- 26-18-3.1**, as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018
- 26-18-3.9**, as enacted by Statewide Initiative -- Proposition 3, Nov. 6, 2018
- 26-18-415**, as enacted by Laws of Utah 2018, Chapter 468
- 26-36b-103**, as last amended by Laws of Utah 2018, Chapters 285, 316, 384, and 468
- 26-36b-208**, as last amended by Laws of Utah 2018, Chapters 384 and 468
- 26-36c-102**, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-201**, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-203**, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-204**, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-206**, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-208**, as enacted by Laws of Utah 2018, Chapter 468
- 26-36c-209**, as enacted by Laws of Utah 2018, Chapter 468
- 59-12-103**, as amended by Statewide Initiative -- Proposition 3, Nov. 6, 2018

### **ENACTS:**

**59-10-138, Utah Code Annotated 1953**

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

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Section 1. Section **26-18-3.1** is amended to read:

### **26-18-3.1. Medicaid expansion.**

(1) The purpose of this section is to expand the coverage of the Medicaid program to persons who are in categories traditionally not served by that program.

(2) Within appropriations from the Legislature, the department may amend the state plan for medical assistance to provide for eligibility for Medicaid:

(a) on or after July 1, 1994, for children 12 to 17 years old who live in households below the federal poverty income guideline; and

(b) on or after July 1, 1995, for persons who have incomes below the federal poverty income guideline and who are aged, blind, or have a disability.

(3) (a) Within appropriations from the Legislature, on or after July 1, 1996, the Medicaid program may provide for eligibility for persons who have incomes below the federal poverty income guideline.

(b) In order to meet the provisions of this subsection, the department may seek approval for a demonstration project under 42 U.S.C. [~~Section~~] Sec. 1315 from the secretary of the United States Department of Health and Human Services. This demonstration project may also provide for the voluntary participation of private firms that:

(i) are newly established or marginally profitable;

(ii) do not provide health insurance to their employees;

(iii) employ predominantly low wage workers; and

(iv) are unable to obtain adequate and affordable health care insurance in the private market.

(4) The Medicaid program shall provide for eligibility for persons as required by [~~Section~~] Subsection 26-18-3.9(2).

(5) [~~Subject to the requirements of Section 26-18-3.9(2) and (3), services~~] Services available for persons described in this section shall include required Medicaid services and may include one or more optional Medicaid services if those services are funded by the Legislature. [~~Subject to the requirements of Section 26-18-3.9(2), the~~] The department may also require persons described in [~~this section~~] Subsections (1) through (3) to meet an asset test.

Section 2. Section **26-18-3.9** is amended to read:

### **26-18-3.9. Expanding the Medicaid program.**

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~~[(1) Findings and purpose:]~~

~~[(a) Findings. The People of the State of Utah find that:]~~

~~[(i) Adequate medical care is crucial to the health and welfare of the residents of Utah;]~~

~~[(ii) It is essential that all Utahns have access to medical care, including preventive care, emergency services, and hospital care;]~~

~~[(iii) Utah's Medicaid program and CHHP provide care to Utahns who are unable to afford private health insurance and are not eligible for other health insurance. Medicaid and CHHP are vital parts of the Utah health care system and it is essential that they continue to provide health care for the most vulnerable citizens of our state;]~~

~~[(iv) However, over 250,000 Utahns remain uninsured and do not have adequate access to health care. Over 100,000 of the uninsured would be covered by Medicaid if the State of Utah were to expand eligibility to all individuals who are in the federal optional Medicaid expansion population, as defined as of January 1, 2017;]~~

~~[(v) When people don't have access to care they are far more likely to develop chronic conditions, like diabetes or asthma, that often require expensive treatment for a patient's entire life, resulting in unnecessary suffering and driving up the cost of healthcare;]~~

~~[(vi) When medical providers provide care for which patients are not insured, the cost of that care is passed on to others, thus increasing the cost of medical care for all Utah residents;]~~

~~[(vii) It is critical to the survival of the Medicaid program that it remain adequately funded so that it can provide needed medical services to those who otherwise would not have access to care, and can compensate the providers who serve participants. The compensation to providers must be adequate to encourage providers to continue to treat patients on Medicaid; and]~~

~~[(viii) From moral, health and fiscal perspectives, protecting and expanding the Medicaid program in Utah is essential to maintaining the quality of life in our state.]~~

~~[(b) Purpose. The purpose of this measure is to preserve and strengthen medical care in the State of Utah by the following:]~~

~~[(i) Protecting Medicaid and CHHP so that they can continue to provide medical care to those who are currently eligible, and]~~

~~[(ii) Expanding Medicaid eligibility to adults who are in the federal optional Medicaid~~

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~~expansion population, as defined as of January 1, 2017.]~~

(1) As used in this section:

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

(b) "Federal poverty level" means the same as that term is defined in Section 26-18-411.

(c) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.

(d) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section 26-36b-208.

(2) (a) ~~[Eligibility.]~~ As set forth in Subsections (2)~~[(a)]~~ through ~~[(2)(d)]~~ (5), eligibility criteria for the Medicaid program shall be ~~[maintained as they existed on January 1, 2017 and also]~~ expanded to cover additional low-income individuals.

~~[(a) The standards, methodologies, and procedures for determining eligibility for the Medicaid program and CHIP shall be no more restrictive than the eligibility standards, methodologies, and procedures, respectively, that were in effect on January 1, 2017.]~~

(b) The department shall continue to seek approval from CMS to implement the Medicaid waiver expansion as defined in Section 26-18-415.

(c) The department may implement any provision described in Subsections 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval from CMS to implement that provision.

(3) The department shall expand the Medicaid program in accordance with this Subsection (3) if the department:

(a) receives approval from CMS to:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for enrolling an individual in the Medicaid expansion under this Subsection (3); and

(iii) permit the state to close enrollment in the Medicaid expansion under this Subsection (3) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (3);

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(b) pays the state portion of costs for the Medicaid expansion under this Subsection (3) with funds from:

(i) the Medicaid Expansion Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(c) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (3) if the department projects that the cost of the Medicaid expansion under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4) (a) The department shall expand the Medicaid program in accordance with this Subsection (4) if the department:

(i) receives approval from CMS to:

(A) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid expansion under this Subsection (4); and

(C) permit the state to close enrollment in the Medicaid expansion under this Subsection (4) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (4);

(ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4) with funds from:

(A) the Medicaid Expansion Fund;

(B) county contributions to the nonfederal share of Medicaid expenditures; or

(C) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(iii) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (4) if the department projects that the cost of the Medicaid expansion under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter

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### 1, Budgetary Procedures Act.

(b) The department shall submit a waiver, an amendment to an existing waiver, or a state plan amendment to CMS to:

(i) administer federal funds for the Medicaid expansion under this Subsection (4) according to a per capita cap developed by the department that includes an annual inflationary adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees, and provides greater flexibility to the state than the current Medicaid payment model;

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (4);

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (4) violates certain program requirements as defined by the department;

(iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to remain in the Medicaid program for up to a 12-month certification period as defined by the department; and

(v) allow federal Medicaid funds to be used for housing support for eligible enrollees in the Medicaid expansion under this Subsection (4).

(5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop proposals to implement additional flexibilities and cost controls, including cost sharing tools, within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver or state plan amendment.

(ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i) shall include:

(A) a path to self-sufficiency for qualified adults in the Medicaid expansion that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and

(B) a requirement that an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan.

(iii) The department shall submit the request for a waiver or state plan amendment developed under Subsection (5)(a)(i) on or before March 15, 2020.

(b) Notwithstanding Sections 26-18-18 and 63J-5-204, [~~beginning April 1, 2019,~~] and

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in accordance with this Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in the optional Medicaid expansion population under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance~~[, as those statutory and regulatory provisions and guidance existed on January 1, 2017], on the earlier of:~~

(i) the day on which CMS approves a waiver to implement the provisions described in Subsections (5)(a)(ii)(A) and (B); or

(ii) July 1, 2020.

~~[(c) There shall be no caps on enrollment beyond those in place as of January 1, 2017.]~~

(c) The department shall seek a waiver, or an amendment to an existing waiver, from federal law to:

(i) implement each provision described in Subsections 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion under this Subsection (5);

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (5); and

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (5) violates certain program requirements as defined by the department.

(d) The eligibility criteria in this Subsection ~~[(2)(b)]~~ (5) shall be construed to include all individuals eligible for the health coverage improvement program under Section 26-18-411.

~~[(3) Care and Services. For each enrollment group or category in the Medicaid program and CHIP, the categories of care or services and the types of benefits provided in each category shall be no more restrictive than the categories of care or services and the types of benefits provided on January 1, 2017. Such services and benefits shall be provided in sufficient amount, duration, and scope to achieve their purposes.]~~

~~[(4) Out-of-Pocket Costs. Any premium, beneficiary enrollment fee, and cost sharing requirement applicable to care and services described in this section, including but not limited to co-pay, co-insurance, deductible, or out-of-pocket maximum, shall be no greater than those in effect on January 1, 2017.]~~

~~[(5) Provider payments.]~~

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~~[(a) Payments to providers under the Medicaid program and CHHP for covered care and services shall be made at a rate not less than 100% of the payment rate that applied to such care and services on January 1, 2017, and shall increase annually at a rate not less than the region's Consumer Price Index.]~~

~~[(b) Managed care.]~~

~~[(i) If the department contracts with an accountable care organization or other organization to cover care and services under the Medicaid program or CHHP, a contract with that organization shall provide that the organization shall make payments to providers for items and services that are subject to the contract and that are furnished to individuals eligible for the Medicaid program or CHHP at a rate not less than 100% of the payment rate that at least one accountable care organization that contracted with the department paid for such care and services on January 1, 2017 (regardless of the manner in which such payments are made, including in the form of capitation or partial capitation), and that the minimum payment required by this provision will increase annually at a rate not less than the region's Consumer Price Index.]~~

~~[(ii) Payments by the department to accountable care organizations or such other organizations shall be sufficient for the organizations to comply with the provider payment rate requirements of this section.]~~

~~[(c) This subsection (5) shall not apply to physician reimbursement for drugs or devices.]~~

~~[(6) Nothing in this section shall prevent the people acting through initiative, the Legislature by statute, or the department by promulgating rules from:]~~

~~[(a) Expanding eligibility by adopting less restrictive eligibility standards, methodologies, or procedures than those permitted by Subsection (2);]~~

~~[(b) Expanding covered care and services by adding to the list, amount, duration, or scope of covered care and services required by Subsection (3);]~~

~~[(c) Reducing premiums, beneficiary enrollment fees, or cost sharing requirements below the maximum levels permitted by Subsection (4); or]~~

~~[(d) Increasing provider payments above the minimum payments required by Subsection (5).]~~

~~[(7) For purposes of this section:]~~

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~~[(a) The “Medicaid program” means the Medicaid program defined by Section 26-18-2, including any waivers.]~~

~~[(b) The “Utah Children’s Health Insurance Program” or “CHIP” means the Utah Children’s Health Insurance Program created in Chapter 40, Utah Children’s Health Insurance Act.]~~

(e) The department shall pay the state portion of costs for a Medicaid expansion under this Subsection (5) entirely from:

(i) the Medicaid Expansion Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures.

(f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds available under Subsection (5)(e):

(i) the department may reduce or eliminate optional Medicaid services under this chapter; and

(ii) savings, as determined by the department, from the reduction or elimination of optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid Expansion Fund; and

(iii) the department may submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary to implement budget controls within the Medicaid program to address the deficiency.

(g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the department to exceed the funds available in the current fiscal year under Subsection (5)(e), including savings resulting from any action taken under Subsection (5)(f):

(i) the governor shall direct the Department of Health, Department of Human Services, and Department of Workforce Services to reduce commitments and expenditures by an amount sufficient to offset the deficiency:

(A) proportionate to the share of total current fiscal year General Fund appropriations for each of those agencies; and

(B) up to 10% of each agency’s total current fiscal year General Fund appropriations;  
and

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(ii) the Division of Finance shall reduce allotments to the Department of Health, Department of Human Services, and Department of Workforce Services by a percentage:

(A) proportionate to the amount of the deficiency; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations;

and

(iii) the Division of Finance shall deposit the total amount from the reduced allotments described in Subsection (5)(g)(ii) into the Medicaid Expansion Fund.

~~[(8)] (6) The department shall maximize federal financial participation in implementing this section, including by seeking to obtain any necessary federal approvals or waivers.~~

~~[(9) This section and Section 26-18-3.1(4) shall not apply to CHHP in any year for which the State Children's Health Insurance Program, as described in Subchapter XXI, 42 U.S.C. Sec. 1397aa et seq., is not extended at the federal level.]~~

~~[(10)] (7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under [Subsection (2)(b)] a Medicaid expansion.~~

~~[(11) Severability. If any provision of this section or its application to any person or circumstance is held invalid, the remainder of this section shall be given effect without the invalid provision or application, and to this end the provisions of this section are severable.]~~

(8) The department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that a Medicaid expansion is operational:

(a) the number of individuals who enrolled in the Medicaid expansion;

(b) costs to the state for the Medicaid expansion;

(c) estimated costs to the state for the Medicaid expansion for the current and

following fiscal years; and

(d) recommendations to control costs of the Medicaid expansion.

Section 3. Section **26-18-415** is amended to read:

### **26-18-415. Medicaid waiver expansion.**

(1) As used in this section:

(a) "CMS" means the Centers for Medicare and Medicaid Services within the United

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States Department of Health and Human Services.

(b) "Expansion population" means individuals:

(i) whose household income is less than 95% of the federal poverty level; and

(ii) who are not eligible for enrollment in the Medicaid program, with the exception of the Primary Care Network program, on May 8, 2018.

(c) "Federal poverty level" means the same as that term is defined in Section 26-18-411.

(d) "Medicaid waiver expansion" means [~~a Medicaid expansion~~] an expansion of the Medicaid program in accordance with this section.

(2) (a) Before January 1, 2019, the department shall apply to CMS for approval of a waiver or state plan amendment to implement the Medicaid waiver expansion.

(b) The Medicaid waiver expansion shall:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid program;

(iii) provide Medicaid benefits through the state's Medicaid accountable care organizations in areas where a Medicaid accountable care organization is implemented;

(iv) integrate the delivery of behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model;

(v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C. Sec. 607(d), for qualified adults;

(vi) require an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan;

(vii) sunset in accordance with Subsection (5)(a); and

(viii) permit the state to close enrollment in the Medicaid waiver expansion if the department has insufficient funding to provide services to additional eligible individuals.

(3) If the Medicaid waiver described in Subsection (1) is approved, the department may only pay the state portion of costs for the Medicaid waiver expansion with appropriations from:

(a) the Medicaid Expansion Fund, created in Section 26-36b-208;

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(b) county contributions to the non-federal share of Medicaid expenditures; and

(c) any other contributions, funds, or transfers from a non-state agency for Medicaid expenditures.

(4) (a) In consultation with the department, Medicaid accountable care organizations and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on enrollment, engagement of patients, and coordination of services.

(b) As part of the provision described in Subsection (2)(b)(iv), the department shall apply for a waiver to permit the creation of an integrated delivery system:

(i) for any geographic area that expresses interest in integrating the delivery of services under Subsection (2)(b)(iv); and

(ii) in which the department:

(A) may permit a local mental health authority to integrate the delivery of behavioral health services and physical health services;

(B) may permit a county, local mental health authority, or Medicaid accountable care organization to integrate the delivery of behavioral health services and physical health services to select groups within the population that are newly eligible under the Medicaid waiver expansion; and

(C) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to integrate payments for behavioral health services and physical health services to plans or providers.

(5) (a) If federal financial participation for the Medicaid waiver expansion is reduced below 90%, the authority of the department to implement the Medicaid waiver expansion shall sunset no later than the next July 1 after the date on which the federal financial participation is reduced.

(b) The department shall close the program to new enrollment if the cost of the Medicaid waiver expansion is projected to exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(6) If the Medicaid waiver expansion is approved by CMS, the department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that the Medicaid waiver expansion is operational:

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- (a) the number of individuals who enrolled in the Medicaid waiver program;
- (b) costs to the state for the Medicaid waiver program;
- (c) estimated costs for the current and following state fiscal year; and
- (d) recommendations to control costs of the Medicaid waiver expansion.

Section 4. Section **26-36b-103** is amended to read:

### **26-36b-103. Definitions.**

As used in this chapter:

- (1) "Assessment" means the inpatient hospital assessment established by this chapter.
- (2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.
- (3) "Discharges" means the number of total hospital discharges reported on:
  - (a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or
  - (b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.
- (4) "Division" means the Division of Health Care Financing within the department.
- (5) "Enhancement waiver program" means the program established by the Primary Care Network enhancement waiver program described in Section 26-18-416.
- (6) "Health coverage improvement program" means the health coverage improvement program described in Section 26-18-411.
- (7) "Hospital share" means the hospital share described in Section 26-36b-203.
- (8) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.
- (9) "Medicaid waiver expansion" means a Medicaid expansion in accordance with Section 26-18-3.9 or 26-18-415.
- (10) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.
- (11) (a) "Non-state government hospital" means a hospital owned by a non-state government entity.
  - (b) "Non-state government hospital" does not include:

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(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(12) (a) "Private hospital" means:

(i) a general acute hospital, as defined in Section 26-21-2, that is privately owned and operating in the state; and

(ii) a privately owned specialty hospital operating in the state, including a privately owned hospital whose inpatient admissions are predominantly for:

(A) rehabilitation;

(B) psychiatric care;

(C) chemical dependency services; or

(D) long-term acute care services.

(b) "Private hospital" does not include a facility for residential treatment as defined in Section 62A-2-101.

(13) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

(14) "Upper payment limit gap" means the difference between the private hospital outpatient upper payment limit and the private hospital Medicaid outpatient payments, as determined in accordance with 42 C.F.R. Sec. 447.321.

Section 5. Section **26-36b-208** is amended to read:

### **26-36b-208. Medicaid Expansion Fund.**

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program as determined by the department;

(d) savings attributable to the enhancement waiver program as determined by the department;

(e) savings attributable to the Medicaid waiver expansion as determined by the

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department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

(g) savings attributable to the services provided by the Public Employees' Health Plan under Subsection 49-20-401(1)(u);

(h) revenues collected from the sales tax described in Subsection 59-12-103(14);

~~(h)~~ (i) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

~~(i)~~ (j) interest earned on money in the fund; and

~~(j)~~ (k) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) ~~the~~ a Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 6. Section **26-36c-102** is amended to read:

### **26-36c-102. Definitions.**

As used in this chapter:

(1) "Assessment" means the Medicaid expansion hospital assessment established by this chapter.

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

(3) "Discharges" means the number of total hospital discharges reported on:

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(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Health Care Financing within the department.

(5) "Hospital share" means the hospital share described in Section 26-36c-203.

(6) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(7) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in Section 26-36b-208.

(8) "Medicaid waiver expansion" means the same as that term is defined in Section 26-18-415.

(9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(10) (a) "Non-state government hospital" means a hospital owned by a non-state government entity.

(b) "Non-state government hospital" does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(11) (a) "Private hospital" means:

(i) a privately owned general acute hospital operating in the state as defined in Section 26-21-2; or

(ii) a privately owned specialty hospital operating in the state, including a privately owned hospital for which inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services.

(b) "Private hospital" does not include a facility for residential treatment as defined in

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Section 62A-2-101.

(12) "Qualified Medicaid expansion" means an expansion of the Medicaid program in accordance with Subsection 26-18-3.9(5).

~~[(12)]~~ (13) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

Section 7. Section **26-36c-201** is amended to read:

### **26-36c-201. Assessment.**

(1) An assessment is imposed on each private hospital:

(a) beginning upon the later of:

~~[(a) beginning upon the later of CMS approval of:]~~

~~(i) [the waiver for the Medicaid waiver expansion]~~ April 1, 2019; and

~~(ii) CMS approval of the assessment under this chapter;~~

~~(b) in the amount designated in Sections 26-36c-204 and 26-36c-205; and~~

~~(c) in accordance with Section 26-36c-202.~~

~~(2) [Subject to Subsection 26-36c-202(4), the]~~ The assessment imposed by this chapter is due and payable [on the last day of each quarter] in accordance with Subsection 26-36c-202(4).

~~[(3) The first quarterly payment is not due until at least three months after the effective date of the coverage provided through the Medicaid waiver expansion.]~~

Section 8. Section **26-36c-203** is amended to read:

### **26-36c-203. Hospital share.**

(1) The hospital share is:

(a) for the period from April 1, 2019, through June 30, 2020, \$15,000,000; and

(b) beginning July 1, 2020, 100% of the state's net cost of the qualified Medicaid [waiver] expansion, after deducting appropriate offsets and savings expected as a result of implementing the qualified Medicaid [waiver] expansion, including:

(i) savings from:

~~[(a)]~~ (A) the Primary Care Network program;

~~[(b)]~~ (B) the health coverage improvement program, as defined in Section 26-18-411;

~~[(c)]~~ (C) the state portion of inpatient prison medical coverage;

~~[(d)]~~ (D) behavioral health coverage; and

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~~(e)~~ (E) county contributions to the non-federal share of Medicaid expenditures~~[-]; and~~  
(ii) any funds appropriated to the Medicaid Expansion Fund.

(2) (a) ~~The~~ Beginning July 1, 2020, the hospital share is capped at no more than ~~[\$25,000,000]~~ \$15,000,000 annually.

(b) ~~The~~ Beginning July 1, 2020, the division shall prorate the cap specified in Subsection (2)(a) in any year in which the qualified Medicaid ~~waiver~~ expansion is not in effect for the full fiscal year.

Section 9. Section **26-36c-204** is amended to read:

### **26-36c-204. Hospital financing.**

(1) Private hospitals shall be assessed under this chapter for the portion of the hospital share described in Section 26-36c-209.

(2) The department shall, on or before October 15, ~~[2019]~~ 2020, and on or before October 15 of each subsequent year, produce a report that calculates the state's net cost of the qualified Medicaid ~~waiver~~ expansion.

(3) If the assessment collected in the previous fiscal year is above or below the hospital share for private hospitals for the previous fiscal year, the division shall apply the underpayment or overpayment of the assessment by the private hospitals to the fiscal year in which the report is issued.

Section 10. Section **26-36c-206** is amended to read:

### **26-36c-206. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.**

(1) A state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid Expansion Fund, in accordance with this section.

(2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of ~~[CMS approval of]~~:

(a) ~~[the waiver for the Medicaid waiver expansion]~~ April 1, 2019; or

(b) CMS approval of the assessment for private hospitals in this chapter.

(3) The intergovernmental transfer is apportioned between the non-state government hospitals as follows:

(a) the state teaching hospital shall pay for the portion of the hospital share described in Section 26-36c-209; and

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(b) non-state government hospitals shall pay for the portion of the hospital share described in Section 26-36c-209.

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

- (a) the method of calculating the amounts designated in Subsection (3); and
- (b) the schedule for the intergovernmental transfers.

Section 11. Section **26-36c-208** is amended to read:

### **26-36c-208. Hospital reimbursement.**

(1) If the qualified Medicaid [~~waiver~~] expansion is implemented by contracting with a Medicaid accountable care organization, the department shall, to the extent allowed by law, include in a contract to provide benefits under the qualified Medicaid [~~waiver~~] expansion a requirement that the accountable care organization reimburse hospitals in the accountable care organization's provider network at no less than the Medicaid fee-for-service rate.

(2) If the qualified Medicaid [~~waiver~~] expansion is implemented by the department as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits the department or a Medicaid accountable care organization from paying a rate that exceeds the Medicaid fee-for-service rate.

Section 12. Section **26-36c-209** is amended to read:

### **26-36c-209. Hospital financing of the hospital share.**

(1) For the first two full fiscal years that the assessment is in effect, the department shall:

(a) assess private hospitals under this chapter for 69% of the hospital share [~~for the Medicaid waiver expansion~~];

(b) require the state teaching hospital to make an intergovernmental transfer under this chapter for 30% of the hospital share [~~for the Medicaid waiver expansion~~]; and

(c) require non-state government hospitals to make an intergovernmental transfer under this chapter for 1% of the hospital share [~~for the Medicaid waiver expansion~~].

(2) (a) At the beginning of the third full fiscal year that the assessment is in effect, and at the beginning of each subsequent fiscal year, the department may set a different percentage share for private hospitals, the state teaching hospital, and non-state government hospitals by

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rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with input from private hospitals and private teaching hospitals.

(b) If the department does not set a different percentage share under Subsection (2)(a), the percentage shares in Subsection (1) shall apply.

Section 13. Section ~~{59-12-103}~~59-10-138 is ~~{amended}~~enacted to read:

### 59-10-138. Capital gains tax subsidy -- Work effort requirement.

(1) As used in this section:

(a) "Capital gains tax subsidy" means the amount of the decrease in a taxpayer's state and federal tax obligations on net capital gains directly attributable to the difference between:

(i) the tax rate for net capital gains under 26 U.S.C. Sec. 1(h); and

(ii) the highest marginal federal income tax rate that the taxpayer would be subject to if the taxpayer's net capital gains were counted as ordinary income.

(b) "Medicaid program" means the same as that term is defined in Section 26-18-2.

(c) "Net capital gains" means a difference that is greater than \$0 between:

(i) a taxpayer's net long-term capital gain for the year; and

(ii) the taxpayer's net short-term capital loss for the year.

(d) "Qualified taxpayer" means a taxpayer who, in a given tax year:

(i) claims a net capital gain that is allocable to this state;

(ii) has a capital gains tax subsidy that is greater than \$0; and

(iii) would be subject to a work effort requirement if the taxpayer were enrolled in the Medicaid program.

(e) "Work effort" means any program implemented by the Department of Health that requires an enrollee in the Medicaid program to fulfill:

(i) a path to self-sufficiency as described in Subsection 26-18-415(2)(b)(v); or

(ii) any provision that is substantially similar to the requirement described in Subsection (1)(d)(i).

(2) A taxpayer is subject to the requirements of a work effort for each tax year in which:

(a) the taxpayer is a qualified taxpayer; and

(b) a work effort is required for any enrollee in the Medicaid program.

(3) (a) A qualified taxpayer is subject to the tax described in this Subsection (3)(b) for

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each taxable year in which the qualified taxpayer:

(i) is subject to a work effort under Subsection (2); and

(ii) fails to comply with the requirements of the work effort.

(b) The tax is 100% of the qualified taxpayer's capital gains tax subsidy.

(4) (a) The commission shall require each taxpayer in the state to certify on the

taxpayer's individual income tax return that the taxpayer:

(i) is not subject to a work effort;

(ii) is subject to a work effort and has complied with the requirements of a work effort;

or

(iii) is subject to a work effort but has failed to comply with the requirements of a work effort.

(b) A taxpayer described in Subsection (4)(a)(iii) shall file a return, in a form the commission prescribes, calculating the taxpayer's capital gains tax subsidy.

Section 14. Section 59-12-103 is amended to read:

**59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

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- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;
- (d) sales of the following for residential use:

- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

- (i) the tangible personal property; and
- (ii) parts used in the repairs or renovations of the tangible personal property described

in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for

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assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) (I) through March 31, 2019, 4.70%; and

(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (14)(a);

and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

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State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(i) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to

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taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax

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rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i)(A);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i); or
- (iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

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(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

- (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
  - (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
  - (B) for the fiscal year; or
- (ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

- (iii) At the end of each fiscal year:

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(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

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(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

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(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)

## **SB0096S05 compared with SB0096S04**

shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the

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approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited

## **SB0096S05 compared with SB0096S04**

under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

- (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

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(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

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(13) Notwithstanding Subsections (4) through (12) and (14), an amount required to be expended or deposited in accordance with Subsections (4) through (12) and (14) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

(14) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue [~~generated by a 0.15% tax rate imposed~~] collected from the rate described in Subsection (14)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) [as dedicated credits to the Division of Health Care Financing] into the Medicaid Expansion Fund created in Section 26-36b-208; and

(ii) for a fiscal year beginning on or after [~~fiscal year 2019-20~~] July 1, 2019, annually transfer the amount of revenue [~~generated by a 0.15% tax rate~~] collected from the rate described in Subsection (14)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) [as dedicated credits to the Division of Health Care Financing] into the Medicaid Expansion Fund created in Section 26-36b-208.

~~[(c) The revenue described in Subsection (14)(b) that the Division of Finance transfers to the Division of Health Care Financing as dedicated credits shall be expended for the following uses:]~~

~~[(i) implementation of the Medicaid expansion described in Sections 26-18-3.1(4) and 26-18-3.9(2)(b);]~~

~~[(ii) if revenue remains after the use specified in Subsection (14)(c)(i), other measures required by Section 26-18-3.9; and]~~

~~[(iii) if revenue remains after the uses specified in Subsections (14)(c)(i) and (ii), other measures described in Title 26, Chapter 18, Medical Assistance Act.]~~

### Section ~~(14)~~ 15. **Fiscal Year 2019 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for fiscal year 2019.

#### Subsection 12(a). **Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or fund accounts

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indicated for the use and support of the government of the state of Utah.

### ITEM 1

To Department of Health -- Medicaid Services

From General Fund, One-time (\$14,900,000)

Schedule of Programs:

Other Services (\$18,000,000)

Medicaid Expansion 2017 \$3,100,000

The Legislature intends that the Department of Health use the funding increase provided for the Medicaid Expansion 2017 program for any increase in Medicaid enrollment in the base program resulting from a Medicaid expansion.

Subsection 12(b). **Expendable Funds and Accounts.**

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

### ITEM 2

To Department of Health -- Medicaid Expansion Fund

From General Fund, One-time \$38,200,000

From General Fund Restricted - Medicaid Restricted Account,  
One-time \$1,200,000

Schedule of Programs:

Medicaid Expansion Fund \$39,400,000

Section 13. **Fiscal Year 2020 Appropriations.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020.

Subsection 13(a). **Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or fund accounts indicated for the use and support of the government of the state of Utah.

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ITEM 3

To Department of Health -- Children's Health Insurance Program

From General Fund, One-time (\$18,663,900)

Schedule of Programs:

Children's Health Insurance Program (\$18,663,900)

ITEM 4

To Department of Health -- Medicaid Services

From General Fund Restricted - Medicaid Restricted Account,

One-time \$16,800,000

Schedule of Programs:

Medicaid Expansion 2017 \$16,800,000

The Legislature intends that the Department of Health use the funding provided for any increase in Medicaid enrollment in the base program resulting from a Medicaid expansion.

Subsection 13(b). **Expendable Funds and Accounts.**

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 5

To Department of Health -- Medicaid Expansion Fund

From General Fund \$15,000,000

Schedule of Programs:

Medicaid Expansion Fund \$15,000,000

Section ~~{15}~~ 16. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.