

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

2                                   2020 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Evan J. Vickers**

5                                   House Sponsor: Francis D. Gibson

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies parts of the Utah Code to make technical corrections.

10 **Highlighted Provisions:**

11       This bill:

12           ▶ modifies parts of the Utah Code to make technical corrections, including  
13 eliminating references to repealed provisions, eliminating redundant or obsolete  
14 language, making minor wording changes, updating cross-references, and correcting  
15 numbering and other errors.

16 **Money Appropriated in this Bill:**

17       None

18 **Other Special Clauses:**

19       None

20 **Utah Code Sections Affected:**

21 **AMENDS:**

22       **3-1-11**, as last amended by Laws of Utah 2010, Chapter 378

23       **4-4-107**, as enacted by Laws of Utah 2019, Chapter 138

24       **4-5-104**, as renumbered and amended by Laws of Utah 2017, Chapter 345

25       **4-10-106**, as renumbered and amended by Laws of Utah 2017, Chapter 345

26       **4-15-110**, as renumbered and amended by Laws of Utah 2017, Chapter 345

27       **4-16-501**, as renumbered and amended by Laws of Utah 2017, Chapter 345

28       **4-32a-208**, as enacted by Laws of Utah 2019, Chapter 315

29       **7-3-3**, as last amended by Laws of Utah 2013, Chapter 73

- 30 **7-25-102**, as last amended by Laws of Utah 2019, Chapter 353
- 31 **10-1-307**, as last amended by Laws of Utah 2011, Chapter 309
- 32 **10-1-405**, as last amended by Laws of Utah 2012, Chapter 422
- 33 **10-5-132**, as last amended by Laws of Utah 2019, Chapter 20
- 34 **11-13-602**, as enacted by Laws of Utah 2016, Chapter 382
- 35 **11-17-2**, as last amended by Laws of Utah 2016, Chapter 176
- 36 **11-59-202**, as enacted by Laws of Utah 2018, Chapter 388
- 37 **13-32a-104**, as last amended by Laws of Utah 2019, Chapter 309
- 38 **13-32a-110**, as last amended by Laws of Utah 2019, Chapter 309
- 39 **13-32a-111**, as last amended by Laws of Utah 2019, Chapter 309
- 40 **13-32a-112**, as last amended by Laws of Utah 2019, Chapter 309
- 41 **16-6a-1008.7**, as last amended by Laws of Utah 2013, Chapter 412
- 42 **17-27a-602**, as last amended by Laws of Utah 2019, Chapter 384
- 43 **17-27a-604.5**, as last amended by Laws of Utah 2019, Chapter 384
- 44 **17-50-335**, as last amended by Laws of Utah 2016, Chapter 371
- 45 **17B-1-202**, as last amended by Laws of Utah 2016, Chapter 371
- 46 **17B-2a-1207**, as enacted by Laws of Utah 2019, Chapter 490
- 47 **17D-1-103**, as last amended by Laws of Utah 2018, Chapter 256
- 48 **17D-1-201**, as last amended by Laws of Utah 2016, Chapter 371
- 49 **19-1-404**, as last amended by Laws of Utah 2014, Chapter 295
- 50 **19-2-104**, as last amended by Laws of Utah 2015, Chapter 154
- 51 **19-6-102.1**, as last amended by Laws of Utah 2018, Chapter 281
- 52 **19-6-104**, as last amended by Laws of Utah 2019, Chapter 152
- 53 **19-6-715**, as last amended by Laws of Utah 2011, Chapter 309
- 54 **19-6-808**, as last amended by Laws of Utah 2011, Chapter 309
- 55 **20A-1-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
- 56 **20A-3-302**, as last amended by Laws of Utah 2019, Chapter 255
- 57 **20A-7-402**, as last amended by Laws of Utah 2019, Chapters 203, 255 and last

58 amended by Coordination Clause, Laws of Utah 2019, Chapter 203  
59 **26-18-416**, as last amended by Laws of Utah 2019, Chapters 136 and 393  
60 **26-19-302**, as renumbered and amended by Laws of Utah 2018, Chapter 443  
61 **26-61a-113**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1  
62 **26-61a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
63 **26-61a-602**, as repealed and reenacted by Laws of Utah 2019, First Special Session,  
64 Chapter 5  
65 **26-61a-604**, as repealed and reenacted by Laws of Utah 2019, First Special Session,  
66 Chapter 5  
67 **26-61a-702**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
68 **30-3-37**, as last amended by Laws of Utah 2014, Chapter 162  
69 **31A-2-218**, as last amended by Laws of Utah 2015, Chapter 283  
70 **31A-30-106.1**, as last amended by Laws of Utah 2017, Chapter 168  
71 **31A-30-112**, as last amended by Laws of Utah 2013, Chapter 341  
72 **31A-30-115**, as last amended by Laws of Utah 2013, Chapters 319 and 341  
73 **31A-30-117**, as last amended by Laws of Utah 2015, Chapter 283  
74 **32B-7-408**, as enacted by Laws of Utah 2019, Chapter 403  
75 **32B-10-206**, as enacted by Laws of Utah 2010, Chapter 276  
76 **32B-10-605**, as enacted by Laws of Utah 2010, Chapter 276  
77 **32B-12-301**, as enacted by Laws of Utah 2010, Chapter 276  
78 **34A-1-205**, as last amended by Laws of Utah 2013, Chapter 428  
79 **34A-2-109**, as renumbered and amended by Laws of Utah 1997, Chapter 375  
80 **35A-1-104.5**, as last amended by Laws of Utah 2015, Chapter 283  
81 **35A-3-203**, as last amended by Laws of Utah 2019, Chapter 89  
82 **38-11-202**, as last amended by Laws of Utah 2018, Chapter 229  
83 **41-1a-422**, as last amended by Laws of Utah 2019, Chapters 38 and 213  
84 **41-1a-1008**, as last amended by Laws of Utah 2013, Chapter 463  
85 **41-3-105**, as last amended by Laws of Utah 2018, Chapter 387

86           **41-6a-102**, as last amended by Laws of Utah 2019, Chapters 49, 391, 428, and 459  
87           **51-11-102**, as enacted by Laws of Utah 2018, Chapter 253  
88           **53E-1-201**, as last amended by Laws of Utah 2019, Chapter 324 and last amended by  
89 Coordination Clause, Laws of Utah 2019, Chapters 41, 205, 223, 342, 446, and 476  
90           **53E-1-202**, as enacted by Laws of Utah 2019, Chapter 324 and last amended by  
91 Coordination Clause, Laws of Utah 2019, Chapter 223  
92           **53E-7-204**, as repealed and reenacted by Laws of Utah 2019, Chapter 187 and last  
93 amended by Coordination Clause, Laws of Utah 2019, Chapter 187  
94           **53E-7-208**, as repealed and reenacted by Laws of Utah 2019, Chapter 187  
95           **53E-8-403**, as last amended by Laws of Utah 2019, Chapter 314  
96           **53F-2-504**, as last amended by Laws of Utah 2019, Chapters 134, 186, and 283  
97           **53F-5-202**, as last amended by Laws of Utah 2019, Chapters 186 and 283  
98           **53F-5-212**, as enacted by Laws of Utah 2019, Chapter 173  
99           **53F-9-201**, as last amended by Laws of Utah 2019, Chapter 191  
100          **53G-7-306**, as last amended by Laws of Utah 2019, Chapter 293  
101          **53G-7-903**, as renumbered and amended by Laws of Utah 2018, Chapter 3  
102          **53G-8-402**, as renumbered and amended by Laws of Utah 2018, Chapter 3  
103          **53G-8-405**, as renumbered and amended by Laws of Utah 2018, Chapter 3  
104          **53G-9-208**, as last amended by Laws of Utah 2019, Chapters 293 and 349  
105          **53G-10-402**, as last amended by Laws of Utah 2019, Chapters 196 and 293  
106          **53G-11-501**, as last amended by Laws of Utah 2019, Chapter 293  
107          **58-1-501.7**, as last amended by Laws of Utah 2019, Chapter 193  
108          **58-9-102**, as last amended by Laws of Utah 2018, Chapter 326  
109          **58-28-606**, as enacted by Laws of Utah 2015, Chapter 61  
110          **58-37-8**, as last amended by Laws of Utah 2019, Chapter 58  
111          **59-2-919**, as last amended by Laws of Utah 2019, Chapters 322 and 450  
112          **59-2-924**, as last amended by Laws of Utah 2018, Chapters 101, 368, and 415  
113          **59-2-1905**, as enacted by Laws of Utah 2019, Chapter 453

114 **59-7-104**, as last amended by Laws of Utah 2019, Chapter 418  
115 **59-7-610**, as last amended by Laws of Utah 2019, Chapter 247  
116 **59-7-614.10**, as last amended by Laws of Utah 2019, Chapter 247  
117 **59-7-624**, as enacted by Laws of Utah 2019, Chapter 247  
118 **59-10-136**, as last amended by Laws of Utah 2019, Chapter 323  
119 **59-10-1007**, as last amended by Laws of Utah 2019, Chapter 247  
120 **59-10-1037**, as last amended by Laws of Utah 2019, Chapter 247  
121 **59-10-1112**, as enacted by Laws of Utah 2019, Chapter 247  
122 **59-12-102**, as last amended by Laws of Utah 2019, Chapters 325, 481, and 486  
123 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486  
124 **59-26-104**, as last amended by Laws of Utah 2011, Chapter 309  
125 **62A-4a-202.9**, as enacted by Laws of Utah 2017, Chapter 459  
126 **63A-5-225**, as last amended by Laws of Utah 2019, Chapter 246  
127 **63F-2-102**, as last amended by Laws of Utah 2018, Chapter 81  
128 **63G-1-401**, as last amended by Laws of Utah 2019, Chapters 47, 82, 91, 123, 308, and  
129 310  
130 **63G-6a-204**, as last amended by Laws of Utah 2019, Chapter 454  
131 **63G-6a-712**, as enacted by Laws of Utah 2018, Chapter 352  
132 **63G-6a-1209**, as enacted by Laws of Utah 2013, Chapter 445  
133 **63G-6a-1403**, as last amended by Laws of Utah 2017, Chapter 348  
134 **63H-1-201**, as last amended by Laws of Utah 2017, Chapter 216  
135 **63I-1-230**, as last amended by Laws of Utah 2018, Chapter 347  
136 **63I-1-253**, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246,  
137 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter  
138 246  
139 **63I-1-263**, as last amended by Laws of Utah 2019, Chapters 89, 246, 311, 414, 468,  
140 469, 482 and last amended by Coordination Clause, Laws of Utah 2019, Chapter  
141 246

142           **63I-2-226**, as last amended by Laws of Utah 2019, Chapters 262, 393, 405 and last  
143 amended by Coordination Clause, Laws of Utah 2019, Chapter 246  
144           **63I-2-231**, as last amended by Laws of Utah 2019, Chapter 55  
145           **63I-2-235**, as last amended by Laws of Utah 2018, Chapter 423  
146           **63I-2-253**, as last amended by Laws of Utah 2019, Chapters 41, 129, 136, 223, 324,  
147 325, and 444  
148           **63I-2-258**, as last amended by Laws of Utah 2018, Chapter 38  
149           **63I-2-259**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6  
150           **63I-2-263**, as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370,  
151 and 483  
152           **63I-2-272**, as last amended by Laws of Utah 2019, Chapters 136 and 246  
153           **63J-4-608**, as enacted by Laws of Utah 2019, Chapter 374  
154           **63M-2-503**, as last amended by Laws of Utah 2019, Chapter 352  
155           **63M-2-504**, as last amended by Laws of Utah 2019, Chapter 352  
156           **63M-7-202**, as last amended by Laws of Utah 2019, Chapter 401  
157           **63M-13-202**, as enacted by Laws of Utah 2019, Chapter 34  
158           **63N-1-501**, as renumbered and amended by Laws of Utah 2015, Chapter 283  
159           **63N-4-302**, as last amended by Laws of Utah 2019, Chapter 465  
160           **64-13e-102**, as last amended by Laws of Utah 2018, Chapter 374  
161           **72-16-306**, as enacted by Laws of Utah 2019, Chapter 244  
162           **73-10-1**, as last amended by Laws of Utah 2007, Chapter 329  
163           **75-9-105**, as enacted by Laws of Utah 2016, Chapter 256  
164           **76-5-702**, as enacted by Laws of Utah 2019, Chapter 398  
165           **77-18-1**, as last amended by Laws of Utah 2019, Chapters 28 and 429  
166           **77-40-102 (Effective 05/01/20)**, as last amended by Laws of Utah 2019, Chapter 448  
167           **78A-6-115**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5  
168           **78B-6-133**, as last amended by Laws of Utah 2019, Chapter 335  
169 REPEALS:

170 **19-2-305**, as enacted by Laws of Utah 2015, Chapter 381

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

173 Section 1. Section **3-1-11** is amended to read:

174 **3-1-11. Certificates of and termination of membership -- Dividends and**  
175 **distribution of reserves -- Preferred stock -- Certificates of interest -- Unclaimed credits.**

176 (1) No certificate for membership or stock shall be issued until fully paid for, but  
177 bylaws may provide that a member may vote and hold office prior to payment in full for his  
178 membership or stock.

179 (2) Dividends in excess of eight per centum per annum on the actual cash value of the  
180 consideration received by the association may not be paid on common stock or membership  
181 capital, but dividends may be cumulative if so provided in the articles or bylaws.

182 (3) (a) Savings in excess of dividends and additions to reserves and surplus shall be  
183 distributed on the basis of patronage.

184 (b) The bylaws may provide that any distribution to a nonmember, who is eligible for  
185 membership, may be credited to that nonmember until the amount of the distribution equals the  
186 value of a membership certificate, or a share of the association's common stock.

187 (c) The distribution credited to the account of the nonmember may be transferred to the  
188 membership fund at the option of the board, if, after two years, the amount is less than the  
189 value of the membership certificate or a share of common stock.

190 (4) (a) The bylaws shall provide the time and manner of settlement of membership  
191 interests with members who withdraw from the association or whose membership is otherwise  
192 terminated.

193 (b) Provisions for forfeiture of membership interests may be made in the bylaws.

194 (c) After the termination of the membership, for whatever cause, the withdrawing  
195 member shall exercise no further control over the facilities, assets, or activities of the  
196 association. The withdrawing member may not claim or receive any assets of the association  
197 except as follows:

198 (i) undistributed patronage allocated to the withdrawing member may be paid to the  
199 withdrawing member pursuant to the association's bylaws;

200 (ii) the withdrawing member may be reimbursed for the par value of membership or  
201 stock in the association pursuant to the association's articles, bylaws, and membership  
202 agreement; and

203 (iii) the withdrawing member shall receive any distributions to which the member is  
204 entitled pursuant to Subsection 3-1-20(3)(d).

205 (5) (a) An association may issue preferred stock to members and nonmembers.

206 (b) Preferred stock may be redeemed or retired by the association on the terms and  
207 conditions as are provided in the articles or bylaws and printed on the stock certificates.

208 (c) Preferred stockholders may not vote, but no change in their priority or preference  
209 rights shall be effective until the written consent of the holders of a majority of the preferred  
210 stock has been obtained.

211 (d) Payment for preferred stock may be made in cash, services, or property on the basis  
212 of the fair value of the stock, services, and property, as determined by the board.

213 (6) (a) The association may issue to each member a certificate of interest evidencing  
214 the member's interest in any fund, capital investment, or other assets of the association.

215 (b) Those certificates may be transferred only to the association, or to other purchasers,  
216 as approved by the board of directors, under the terms and conditions provided for in the  
217 bylaws.

218 (7) (a) As used in this Subsection (7), "reasonable effort" means:

219 (i) a letter to a member's or former member's last-known address, a listing of unclaimed  
220 credits in an association publication, and the posting of a list of unclaimed credits at the  
221 association's principal place of business; and

222 (ii) publishing a list of the unclaimed credits exceeding \$25 each, or greater, in a  
223 newspaper of general circulation in the area where the association's principal offices are  
224 located.

225 (b) The association may retain revolving certificates of interest described in this



226 Subsection (7) as an exception to the provisions of Title 67, Chapter 4a, Revised Uniform  
227 Unclaimed Property Act, if:

228 (i) the board of directors of the association determines to revolve the certificates and  
229 the certificates remain unclaimed by the association's members or former members for five  
230 years after the credit is declared;

231 (ii) the association is authorized to retain those credits by its bylaws;

232 (iii) the board of directors of the association approves the retention; and

233 (iv) before retaining the credits, the association makes a reasonable effort to locate and  
234 communicate the issuance of the credits to the members or former members.

235 (c) (i) The board of directors may either add the unclaimed credits as a contribution to  
236 the capital fund, or use them to establish an agricultural educational program as described in  
237 Subsection (7)(c)(ii).

238 (ii) If the board of directors chooses to use the unclaimed credits to establish an  
239 agricultural educational program, it shall establish an agricultural educational program to:

240 (A) provide scholarships for low income and worthy students to colleges and  
241 universities;

242 (B) provide funding for director training and education;

243 (C) provide funds for cooperative education programs in secondary or higher education  
244 institutions; or

245 (D) provide other educational opportunities.

246 (iii) The board of directors may not distribute unclaimed credits to current patrons of  
247 the association.

248 (iv) Upon dissolution of an association, the board of directors shall report and remit  
249 unclaimed credits to the Division of Unclaimed Property.

250 (d) (i) Each association that applies credits under Subsection (7)(c) during a calendar  
251 year shall file an annual report with the State Treasurer by April 15 of the following year.

252 (ii) The report shall specify:

253 (A) the dollar amount of credits applied during the year;

- 254 (B) the dollar amount of [~~credit~~] credits paid to claimants during the year; and
- 255 (C) the aggregate dollar amount of credits applied since January 1, 1996.
- 256 (e) At any time after the association retains credits under this Subsection (7), the
- 257 association shall pay the members, former members, or their successors in interest, the value of
- 258 the credit, without interest, if the members, former members, or their successors in interest:
- 259 (i) file a written claim for payment with the association; and
- 260 (ii) surrender the certificate issued by the association that evidences the credit.

261 Section 2. Section **4-4-107** is amended to read:

262 **4-4-107. Exemptions from regulation.**

263 (1) Except as provided in this section, a small producer and the shell eggs produced by

264 a small producer [~~is~~] are exempt from regulation by the department.

265 (2) The Department of Health has the authority to investigate foodborne illness.

266 (3) The department may assist, consult, or inspect shell eggs when requested by a small

267 producer.

268 (4) Nothing in this section affects the authority of the Department of Health or the

269 department to certify, license, regulate, or inspect food or food products that are not exempt

270 from certification, licensing regulation, or inspection under this section.

271 (5) The department may make rules, in accordance with Title 63G, Chapter 3, Utah

272 Administrative Rulemaking Act, to govern the temperature, cleaning, and sanitization of shell

273 eggs under this chapter that are sold by a small producer to a restaurant.

274 (6) Eggs sold by a small producer pursuant to this chapter are exempt from the

275 restricted egg tolerances for United States Consumer Grade B as specified in the United States

276 Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by

277 the Agricultural Marketing Service of United States Agriculture Department.

278 Section 3. Section **4-5-104** is amended to read:

279 **4-5-104. Authority to make and enforce rules.**

280 (1) The department may adopt rules to efficiently enforce this chapter, and if

281 practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug,

282 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

283 (2) Hearings authorized or required by this chapter shall be conducted by the  
284 department or by an officer, agent, or employee designated by the department.

285 (3) (a) Except as provided by Subsection (3)(b), all pesticide chemical regulations and  
286 their amendments now or hereafter adopted under authority of the Federal Food, Drug, and  
287 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this state.

288 (b) The department may adopt a rule that prescribes tolerance for pesticides in finished  
289 foods in this state whether or not in accordance with regulations promulgated under the federal  
290 act.

291 (4) (a) Except as provided by Subsection (4)(b), all food additive regulations and their  
292 amendments now or hereafter adopted under authority of the Federal Food, Drug, and  
293 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.

294 (b) The department may adopt a rule that prescribes conditions under which a food  
295 additive may be used in this state whether or not in accordance with regulations promulgated  
296 under the federal act.

297 (5) All color additive regulations adopted under authority of the Federal Food, Drug,  
298 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive rules in this state.

299 (6) (a) Except as provided by Subsection (6)(b), all special dietary use regulations  
300 adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et  
301 seq., are the special dietary use rules in this state.

302 (b) The department may, if it finds it necessary to inform purchasers of the value of a  
303 food for special dietary use, prescribe special dietary use rules whether or not in accordance  
304 with regulations promulgated under the federal act.

305 (7) (a) Except as provided by Subsection (7)(b), all regulations adopted under the Fair  
306 Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the rules in this state.

307 (b) Except as provided by Subsection (7)(c), the department may, if it finds it necessary  
308 in the interest of consumers, prescribe package and labeling rules for consumer commodities,  
309 whether or not in accordance with regulations promulgated under the federal act.

310 (c) The department may not adopt rules that are contrary to the labeling requirements  
311 for the net quantity of contents required according to 15 U.S.C. Sec. 1453(a)(4).

312 (8) (a) A federal regulation automatically adopted according to this chapter takes effect  
313 in this state on the date it becomes effective as a federal regulation.

314 (b) The department shall publish all other proposed rules in publications prescribed by  
315 the department.

316 (c) (i) A person who may be adversely affected by a rule may, within 30 days after a  
317 federal regulation is automatically adopted, or within 30 days after publication of any other  
318 rule, file with the department, in writing, objections and a request for a hearing.

319 (ii) The timely filing of substantial objections to a federal regulation automatically  
320 adopted stays the effect of the rule.

321 (d) (i) If no substantial objections are received and no hearing is requested within 30  
322 days after publication of a proposed rule, it shall take effect on a date set by the department.

323 (ii) The effective date shall be at least 60 days after the time for filing objections has  
324 expired.

325 (e) (i) If timely substantial objections are made to a federal regulation within 30 days  
326 after it is automatically adopted or to a proposed rule within 30 days after it is published, the  
327 department, after notice, shall conduct a public hearing to receive evidence on the issues raised  
328 by the objections.

329 (ii) Any interested person or the person's representative may be heard.

330 (f) (i) The department shall act upon objections by order and shall mail the order to  
331 objectors by certified mail as soon after the hearing as practicable.

332 (ii) The order shall be based on substantial evidence in the record of the hearing.

333 (g) (i) If the order concerns a proposed rule, [~~it~~] the department may withdraw [~~it~~] the  
334 rule or set an effective date for the rule as published or as modified by the order.

335 (ii) The effective date shall be at least 60 days after publication of the order.

336 (9) Whenever a regulation is promulgated under authority of the Federal Food, Drug,  
337 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances

338 established by the department under this chapter shall immediately conform to the standards  
339 established by the Federal Food and Drug Administration as herein provided and shall remain  
340 the same until the department determines that for reasons peculiar to Utah a different rule  
341 should apply.

342 Section 4. Section **4-10-106** is amended to read:

343 **4-10-106. Unlawful acts specified.**

344 It is unlawful for any person to:

345 (1) sell bedding, upholstered furniture, quilted clothing, or filling material as new  
346 unless it is made from new material and properly tagged;

347 (2) sell bedding, upholstered furniture, quilted clothing or filling material made from  
348 secondhand material which is not properly tagged;

349 (3) label or sell a used or secondhand article as if it were a new article;

350 (4) use burlap or other material which has been used for packing or baling, or to use  
351 any unsanitary, filthy, or vermin or insect [~~infected~~] infested filling material in the manufacture  
352 or repair of any article;

353 (5) sell bedding, upholstered furniture, quilted clothing or filling material which is not  
354 properly tagged regardless of point of origin;

355 (6) use any false or misleading statement, term, or designation on any tag;

356 (7) use any false or misleading label;

357 (8) sell new bedding, upholstered furniture, or quilted clothing with filling material  
358 made of down, feather, wool, or hair that has not been properly sterilized; or

359 (9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding,  
360 upholstered furniture, quilted clothing, or filling material without a license as required by this  
361 chapter.

362 Section 5. Section **4-15-110** is amended to read:

363 **4-15-110. Nursery stock offered or advertised for sale -- Unlawful to misrepresent**  
364 **name, origin, grade, variety, quality, or vitality -- Information required in**  
365 **advertisements.**

366 (1) A person shall not misrepresent the name, origin, grade, variety, quality, or [indice]  
367 indicia of vitality of any nursery stock advertised or offered for sale at a nursery or nursery  
368 outlet.

369 (2) All advertisements of nursery stock shall clearly state the name, size, and grade of  
370 the stock where applicable.

371 Section 6. Section **4-16-501** is amended to read:

372 **4-16-501. Chapter does not apply to seed not intended for sowing, to seed at seed**  
373 **processing plant, or to seed transported or delivered for transportation in the ordinary**  
374 **course of business.**

375 (1) This chapter does not apply to:

376 (a) seed or grain not intended for sowing;

377 (b) subject to Subsection (2), seed at, or consigned to, a seed processing or cleaning  
378 plant; or

379 (c) to any carrier in respect to any seed transported or delivered for transportation in the  
380 ordinary course of its business as a carrier.

381 (2) Any label or other representation which is made with respect to seed described in  
382 Subsection (1)(b) that is made with respect to the uncleaned or unprocessed seed is subject to  
383 this chapter.

384 (3) A carrier described in Subsection (1)(c) may not be engaged in producing,  
385 processing, or marketing agricultural, vegetable, flower, or tree and shrub seeds or seeds for  
386 sprouting.

387 Section 7. Section **4-32a-208** is amended to read:

388 **4-32a-208. Rulemaking.**

389 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
390 this part, the department shall make rules regarding:

391 (a) antemortem inspection, in accordance with 9 C.F.R. Sec. 352.10;

392 (b) postmortem inspection of the domesticated game carcass to ensure the  
393 domesticated game carcass is clean and wholesome, including inspection of the kidneys and

394 abdominal and thoracic viscera;

395 (c) slaughter area and facilities requirements;

396 (d) personal cleanliness of individuals involved in domesticated game slaughter;

397 (e) skinning, hoisting, bleeding, and evisceration of domesticated game [~~animals~~];

398 (f) chronic wasting disease testing requirements, surveillance, investigation, and

399 follow-up, in accordance with department rule;

400 (g) tags and tagging procedure to maintain carcass identification;

401 (h) procedure for transportation of a domesticated game carcass; and

402 (i) packaging and labeling of domesticated game products.

403 (2) The department may make rules, in accordance with Title 63G, Chapter 3, Utah

404 Administrative Rulemaking Act, regarding labeling a domesticated game carcass as

405 slaughtered:

406 (a) with inspection and processed at a farm custom slaughter facility; or

407 (b) with inspection and the domesticated game carcass released to a licensed food

408 establishment for processing and sale to a consumer.

409 (3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

410 Administrative Rulemaking Act, that allow:

411 (a) a person with a farm custom slaughter license to slaughter and process

412 domesticated game in accordance with this part; and

413 (b) a facility licensed to perform custom exempt processing, as defined in Section

414 [4-32-105](#), to process slaughtered domesticated game in accordance with this part.

415 Section 8. Section **7-3-3** is amended to read:

416 **7-3-3. "Banking business" defined -- Credit card banks -- Insurance of deposit**

417 **accounts.**

418 (1) (a) Except as provided under Subsection (1)(b), a person is considered to be

419 conducting a banking business and is a bank subject to the provisions of this title that are

420 applicable to banks if the person is authorized:

421 (i) under the laws of this:

- 422 (A) state;
- 423 (B) another state;
- 424 (C) the United States;
- 425 (D) the District of Columbia; or
- 426 (E) a territory of the United States; and
- 427 (ii) (A) to accept deposits from the public; and
- 428 (B) to conduct such other business activities as may be authorized by statute or by the
- 429 commissioner in accordance with Subsection 7-3-10(3).

430 (b) A person is not considered to be a bank subject to the provisions of this title that are  
431 applicable to banks if the person is authorized to conduct the business of:

- 432 (i) a federal savings and loan association;
- 433 (ii) a federal savings bank;
- 434 (iii) an industrial bank subject to Chapter 8, Industrial Banks;
- 435 (iv) a federally chartered credit union; or
- 436 (v) a credit union subject to Chapter 9, Utah Credit Union Act.

437 (2) A person authorized to operate as a bank in this state may operate as a credit card  
438 bank if it:

- 439 (a) engages only in credit card operations;
- 440 (b) does not accept demand deposits or deposits that the depositor may withdraw by
- 441 check or similar means for payment to third parties or others;
- 442 (c) does not accept a savings or time [~~deposits~~] deposit of less than \$100,000;
- 443 (d) maintains only one office that accepts deposits; and
- 444 (e) does not engage in the business of making commercial loans.

445 (3) All deposit accounts in banks or branches subject to the jurisdiction of the  
446 department shall be insured by the Federal Deposit Insurance Corporation or a successor to the  
447 Federal Deposit Insurance Corporation.

448 Section 9. Section 7-25-102 is amended to read:

449 **7-25-102. Definitions.**



450 As used in this chapter:

451 (1) "Applicant" means a person filing an application for a license under this chapter.

452 (2) "Authorized agent" means a person designated by the licensee under this chapter to  
453 sell or issue payment instruments or engage in the business of transmitting money on behalf of  
454 a licensee.

455 (3) "Blockchain" [~~or "blockchain technology"~~] means an electronic method of storing  
456 data that is:

457 (a) maintained by consensus of multiple unaffiliated parties;

458 (b) distributed across multiple locations; and

459 (c) mathematically verified.

460 (4) "Blockchain token" means an electronic record that is:

461 (a) recorded on a blockchain; and

462 (b) capable of being traded between persons without an intermediary.

463 (5) "Executive officer" means the licensee's president, chair of the executive  
464 committee, executive vice president, treasurer, chief financial officer, or any other person who  
465 performs similar functions.

466 (6) "Key shareholder" means a person, or group of persons acting in concert, who is the  
467 owner of 20% or more of a class of an applicant's stock.

468 (7) "Licensee" means a person licensed under this chapter.

469 (8) "Material litigation" means litigation that, according to generally accepted  
470 accounting principles, is considered significant to a person's financial health and would be  
471 required to be referenced in an annual audited financial statement, report to shareholders, or  
472 similar document.

473 (9) (a) "Money transmission" means the sale or issuance of a payment instrument or  
474 engaging in the business of receiving money for transmission or transmitting money within the  
475 United States or to locations abroad by any and all means, including payment instrument, wire,  
476 facsimile, or electronic transfer.

477 (b) "Money transmission" does not include a blockchain token.

478 (10) "Nationwide database" means the Nationwide Mortgage Licensing System and  
479 Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage loan  
480 originators.

481 (11) "Outstanding payment instrument" means a payment instrument issued by the  
482 licensee that has been sold in the United States directly by the licensee or a payment instrument  
483 issued by the licensee that has been sold and reported to the licensee as having been sold by an  
484 authorized agent of the licensee in the United States, and that has not yet been paid by or for  
485 the licensee.

486 (12) (a) "Payment instrument" means a check, draft, money order, travelers check, or  
487 other instrument or written order for the transmission or payment of money, sold or issued to  
488 one or more persons, whether or not the instrument is negotiable.

489 (b) "Payment instrument" does not include a credit card voucher, letter of credit, or  
490 instrument that is redeemable by the issuer in goods or services.

491 (13) "Remit" means either to make direct payment of the money to the licensee or its  
492 representatives authorized to receive the money, or to deposit the money in a depository  
493 institution in an account in the name of the licensee.

494 Section 10. Section **10-1-307** is amended to read:

495 **10-1-307. Administration, collection, and enforcement of taxes by commission --**  
496 **Distribution of revenues -- Administrative charge -- Collection of taxes by municipality.**

497 (1) (a) Subject to Subsection (1)(b) and except as provided in Subsection (3), the  
498 commission shall administer, collect, and enforce the municipal energy sales and use tax from  
499 energy suppliers according to the procedures established in:

500 (i) Title 59, Chapter 1, General Taxation Policies; and

501 (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for Sections [59-12-107.1](#) and  
502 [59-12-123](#).

503 (b) If an energy supplier pays a municipal energy sales and use tax to the commission,  
504 the energy supplier shall pay the municipal energy sales and use tax to the commission:

505 (i) monthly on or before the last day of the month immediately following the last day of

506 the previous month if:

507 (A) the energy supplier is required to file a sales and use tax return with the  
508 commission monthly under Section [59-12-108](#); or

509 (B) the energy supplier is not required to file a sales and use tax return under Title 59,  
510 Chapter 12, Sales and Use Tax Act; or

511 (ii) quarterly on or before the last day of the month immediately following the last day  
512 of the previous quarter if the energy supplier is required to file a sales and use tax return with  
513 the commission quarterly under Section [~~59-12-108~~] [59-12-107](#).

514 (2) (a) Except as provided in Subsections [10-1-203](#)(3)(d), [10-1-305](#)(5), and  
515 [10-1-310](#)(2) and subject to Subsection (6), the commission shall pay a municipality the  
516 difference between:

517 (i) the entire amount collected by the commission from the municipal energy sales and  
518 use tax authorized by this part based on:

519 (A) the point of sale of the taxable energy if a taxable sale occurs in a municipality that  
520 imposes a municipal energy sales and use tax as provided in this part; or

521 (B) the point of use of the taxable energy if the use occurs in a municipality that  
522 imposes a municipal energy sales and use tax as provided in this part; and

523 (ii) the administrative charge described in Subsection (2)(c).

524 (b) In accordance with Subsection (2)(a), the commission shall transfer to the  
525 municipality monthly by electronic transfer the revenues generated by the municipal energy  
526 sales and use tax levied by the municipality and collected by the commission.

527 (c) (i) Subject to Subsection (2)(c)(ii), the commission shall retain and deposit an  
528 administrative charge in accordance with Section [59-1-306](#) from revenues the commission  
529 collects from a municipal energy sales and use tax under this part.

530 (ii) The commission may not retain or deposit an administrative charge from revenues  
531 a municipality collects under Subsection (3) from a tax under this part.

532 (3) An energy supplier shall pay the municipal energy sales and use tax revenues it  
533 collects from its customers under this part directly to each municipality in which the energy

534 supplier has sales of taxable energy if:

535 (a) the municipality is the energy supplier; or

536 (b) (i) the energy supplier estimates that the municipal energy sales and use tax  
537 collected annually by the energy supplier from its Utah customers equals \$1,000,000 or more;  
538 and

539 (ii) the energy supplier collects the tax imposed by this part.

540 (4) An energy supplier paying a tax under this part directly to a municipality may retain  
541 the percentage of the tax authorized under Subsection 59-12-108(2) for the energy supplier's  
542 costs of collecting and remitting the tax.

543 (5) An energy supplier paying the tax under this part directly to a municipality shall file  
544 an information return with the commission, at least annually, on a form prescribed by the  
545 commission.

546 (6) (a) As used in this Subsection (6):

547 (i) "2005 base amount" means, for a municipality that imposes a municipal energy  
548 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to  
549 the municipality for fiscal year 2005.

550 (ii) "2006 base amount" means, for a municipality that imposes a municipal energy  
551 sales and use tax, the natural gas portion of municipal energy sales and use tax proceeds paid to  
552 the municipality for fiscal year 2006, reduced by the 2006 rebate amount.

553 (iii) "2006 rebate amount" means, for a municipality that imposes a municipal energy  
554 sales and use tax, the difference between:

555 (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the  
556 municipality for fiscal year 2006; and

557 (B) the 2005 base amount, plus:

558 (I) 10% of the 2005 base amount; and

559 (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the  
560 municipality for fiscal year 2006 attributable to an increase in the rate of the municipal energy  
561 sales and use tax implemented by the municipality during fiscal year 2006.

562 (iv) "2007 rebate amount" means, for a municipality that imposes a municipal energy  
563 sales and use tax, the difference between:

564 (A) the natural gas portion of municipal energy sales and use tax proceeds paid to the  
565 municipality for fiscal year 2007; and

566 (B) the 2006 base amount, plus:

567 (I) 10% of the 2006 base amount; and

568 (II) the natural gas portion of municipal energy sales and use tax proceeds paid to the  
569 municipality for fiscal year 2007 attributable to an increase in the rate of the municipal energy  
570 sales and use tax implemented by the municipality during fiscal year 2007.

571 (v) "Fiscal year 2005" means the period beginning July 1, 2004 and ending June 30,  
572 2005.

573 (vi) "Fiscal year 2006" means the period beginning July 1, 2005 and ending June 30,  
574 2006.

575 (vii) "Fiscal year 2007" means the period beginning July 1, 2006 and ending June 30,  
576 2007.

577 (viii) "Gas supplier" means an energy supplier that supplies natural gas.

578 (ix) "Natural gas portion" means the amount of municipal energy sales and use tax  
579 proceeds attributable to sales and uses of natural gas.

580 (b) (i) In December 2006, each gas supplier shall reduce the natural gas portion of  
581 municipal energy sales and use gas proceeds to be paid to a municipality by the 2006 rebate  
582 amount.

583 (ii) If the 2006 rebate amount exceeds the amount of the natural gas portion of  
584 municipal energy sales and use tax proceeds for December 2006, the gas supplier shall reduce  
585 the natural gas portion of municipal energy sales and use tax proceeds to be paid to a  
586 municipality each month thereafter until the 2006 rebate amount is exhausted.

587 (iii) For December 2006 and for each month thereafter that the gas supplier is required  
588 under Subsection (6)(b)(ii) to reduce the natural gas portion of municipal energy sales and use  
589 tax proceeds to be paid to a municipality:

590 (A) each municipality imposing a municipal energy sales and use tax shall provide the  
591 gas supplier with the amount by which its municipal energy sales and use tax rate applicable to  
592 the sales and uses of natural gas would need to be reduced in order to reduce the natural gas  
593 portion of municipal energy sales and use tax proceeds by the same amount as the reduction to  
594 the municipality; and

595 (B) each gas supplier shall reduce the municipal energy sales and use tax rate  
596 applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by  
597 the municipality.

598 (c) (i) In December 2007, each gas supplier shall reduce the natural gas portion of  
599 municipal energy sales and use tax proceeds to be paid to a municipality by the 2007 rebate  
600 amount.

601 (ii) If the 2007 rebate amount exceeds the amount of the natural gas portion of  
602 municipal energy sales and use tax proceeds for December 2007, the gas supplier shall reduce  
603 the natural gas portion of municipal energy sales and use tax proceeds to be paid to a  
604 municipality each month thereafter until the 2007 rebate amount is exhausted.

605 (iii) For December 2007 and for each month thereafter that the gas supplier is required  
606 under Subsection (6)(c)(ii) to reduce the natural gas portion of municipal energy sales and use  
607 tax proceeds to be paid to a municipality:

608 (A) each municipality imposing a municipal energy sales and use tax shall provide the  
609 gas supplier with the amount by which its municipal energy sales and use tax rate applicable to  
610 the sales and uses of natural gas would need to be reduced in order to reduce the natural gas  
611 portion of municipal energy sales and use tax proceeds by the same amount as the reduction to  
612 the municipality; and

613 (B) each gas supplier shall reduce the municipal energy sales and use tax rate  
614 applicable to sales and uses of natural gas by the amount of the tax rate reduction provided by  
615 the municipality.

616 (d) Nothing in this Subsection (6) may be construed to require a reduction under  
617 Subsection (6)(b) or (c) if the rebate amount is zero or negative.

618 Section 11. Section **10-1-405** is amended to read:

619 **10-1-405. Collection of taxes by commission -- Uniform interlocal agreement --**  
620 **Administrative charge -- Rulemaking authority.**

621 (1) Subject to the other provisions of this section, the commission shall collect,  
622 enforce, and administer any municipal telecommunications license tax imposed under this part  
623 pursuant to:

624 (a) the same procedures used in the administration, collection, and enforcement of the  
625 state sales and use tax under:

626 (i) Title 59, Chapter 1, General Taxation Policies; and

627 (ii) Title 59, Chapter 12, Part 1, Tax Collection:

628 (A) except for:

629 (I) Subsection [59-12-103\(2\)\(i\)](#);

630 (II) Section [59-12-104](#);

631 (III) Section [59-12-104.1](#);

632 (IV) Section [59-12-104.2](#);

633 (V) Section [59-12-104.3](#);

634 (VI) Section [59-12-107.1](#); and

635 (VII) Section [59-12-123](#); and

636 (B) except that for purposes of Section [59-1-1410](#), the term "person" may include a  
637 customer from whom a municipal telecommunications license tax is recovered in accordance  
638 with Subsection [10-1-403\(2\)](#); and

639 (b) a uniform interlocal agreement between the municipality that imposes the  
640 municipal telecommunications license tax and the commission:

641 (i) that is executed under Title 11, Chapter 13, Interlocal Cooperation Act;

642 (ii) that complies with Subsection (2)(a); and

643 (iii) that is developed by rule in accordance with Subsection (2)(b).

644 (2) (a) The uniform interlocal agreement described in Subsection (1) shall provide that  
645 the commission shall:

646 (i) transmit money collected under this part monthly by electronic funds transfer by the  
647 commission to the municipality;

648 (ii) conduct audits of the municipal telecommunications license tax;

649 (iii) retain and deposit an administrative charge in accordance with Section [59-1-306](#)  
650 from revenues the commission collects from a tax under this part; and

651 (iv) collect, enforce, and administer the municipal telecommunications license tax  
652 authorized under this part pursuant to the same procedures used in the administration,  
653 collection, and enforcement of the state sales and use tax as provided in Subsection (1)(a).

654 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
655 commission shall develop a uniform interlocal agreement that meets the requirements of this  
656 section.

657 (3) If a telecommunications provider pays a municipal telecommunications license tax  
658 to the commission, the telecommunications provider shall pay the municipal  
659 telecommunications license tax to the commission:

660 (a) monthly on or before the last day of the month immediately following the last day  
661 of the previous month if:

662 (i) the telecommunications provider is required to file a sales and use tax return with  
663 the commission monthly under Section [59-12-108](#); or

664 (ii) the telecommunications provider is not required to file a sales and use tax return  
665 under Title 59, Chapter 12, Sales and Use Tax Act; or

666 (b) quarterly on or before the last day of the month immediately following the last day  
667 of the previous quarter if the telecommunications provider is required to file a sales and use tax  
668 return with the commission quarterly under Section [~~59-12-108~~] [59-12-107](#).

669 (4) If, on July 1, 2007, a municipality has in effect an ordinance that levies a municipal  
670 telecommunications license tax under this part at a rate that exceeds 3.5%:

671 (a) except as provided in Subsection (4)(b), beginning on July 1, 2007, the commission  
672 shall collect the municipal telecommunications license tax:

673 (i) within the municipality;



- 674 (ii) at a rate of 3.5%; and
- 675 (iii) from a telecommunications provider required to pay the municipal
- 676 telecommunications license tax on or after July 1, 2007; and
- 677 (b) the commission shall collect a municipal telecommunications license tax within the
- 678 municipality at the rate imposed by the municipality if:
- 679 (i) after July 1, 2007, the municipality has in effect an ordinance that levies a municipal
- 680 telecommunications license tax under this part at a rate of up to 3.5%;
- 681 (ii) the municipality meets the requirements of Subsection 10-1-403(3)(b) in changing
- 682 the rate of the municipal telecommunications license tax; and
- 683 (iii) a telecommunications provider is required to pay the municipal
- 684 telecommunications license tax on or after the day on which the ordinance described in
- 685 Subsection (4)(b)(ii) takes effect.

686 Section 12. Section 10-5-132 is amended to read:

687 **10-5-132. Fees collected for construction approval -- Approval of plans.**

688 (1) As used in this section:

689 (a) "Construction project" means the same as that term is defined in Section 38-1a-102.

690 (b) "Lodging establishment" means a place providing temporary sleeping

691 accommodations to the public, including any of the following:

692 (i) a bed and breakfast establishment;

693 (ii) a boarding house;

694 (iii) a dormitory;

695 (iv) a hotel;

696 (v) an inn;

697 (vi) a lodging house;

698 (vii) a motel;

699 (viii) a resort; or

700 (ix) a rooming house.

701 (c) "Planning review" means a review to verify that a town has approved the following

702 elements of a construction project:

703 (i) zoning;

704 (ii) lot sizes;

705 (iii) setbacks;

706 (iv) easements;

707 (v) curb and gutter elevations;

708 (vi) grades and slopes;

709 (vii) utilities;

710 (viii) street names;

711 (ix) defensible space provisions and elevations, if required by the Utah Wildland Urban

712 Interface Code adopted under Section [15A-2-103](#); and

713 (x) subdivision.

714 (d) (i) "Plan review" means all of the reviews and approvals of a plan that a town  
715 requires to obtain a building permit from the town with a scope that may not exceed a review to  
716 verify:

717 (A) that the construction project complies with the provisions of the State Construction  
718 Code under Title 15A, State Construction and Fire Codes Act;

719 (B) that the construction project complies with the energy code adopted under Section  
720 [15A-2-103](#);

721 (C) that the construction project received a planning review;

722 (D) that the applicant paid any required fees;

723 (E) that the applicant obtained final approvals from any other required reviewing  
724 agencies;

725 (F) that the construction project complies with federal, state, and local storm water  
726 protection laws;

727 (G) that the construction project received a structural review;

728 (H) the total square footage for each building level of finished, garage, and unfinished  
729 space; and

730 (I) that the plans include a printed statement indicating that the actual construction will  
731 comply with applicable local ordinances and the state construction codes.

732 (ii) "Plan review" does not mean a review of a document:

733 (A) required to be re-submitted for additional modifications or substantive changes  
734 identified by the plan review;

735 (B) submitted as part of a deferred submittal when requested by the applicant and  
736 approved by the building official; or

737 (C) that, due to the document's technical nature or on the request of the applicant, is  
738 reviewed by a third party.

739 (e) "State Construction Code" means the same as that term is defined in Section  
740 15A-1-102.

741 (f) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

742 (g) "Structural review" means:

743 (i) a review that verifies that a construction project complies with the following:

744 (A) footing size and bar placement;

745 (B) foundation thickness and bar placement;

746 (C) beam and header sizes;

747 (D) nailing patterns;

748 (E) bearing points;

749 (F) structural member size and span; and

750 (G) sheathing; or

751 (ii) if the review exceeds the scope of the review described in Subsection (1)~~(f)~~(g)(i),  
752 a review that a licensed engineer conducts.

753 (h) "Technical nature" means a characteristic that places an item outside the training  
754 and expertise of an individual who regularly performs plan reviews.

755 (2) (a) If a town collects a fee for the inspection of a construction project, the town  
756 shall ensure that the construction project receives a prompt inspection.

757 (b) If a town cannot provide a building inspection within a reasonable time, the town

758 shall promptly engage an independent inspector with fees collected from the applicant.

759 (c) If an inspector identifies one or more violations of the State Construction Code or  
760 State Fire Code during an inspection, on the day on which the inspection occurs, the inspector  
761 shall give the permit holder written notification of each violation that:

762 (i) is delivered in hardcopy or by electronic means; and

763 (ii) upon request by the permit holder, includes a reference to each applicable provision  
764 of the State Construction Code or State Fire Code.

765 (3) (a) A town shall complete a plan review of a construction project for a one to two  
766 family dwelling or townhome by no later than 14 business days after the day on which the plan  
767 is submitted to the town.

768 (b) A town shall complete a plan review of a construction project for a residential  
769 structure built under the International Building Code, not including a lodging establishment, by  
770 no later than 21 business days after the day on which the plan is submitted to the town.

771 (c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before  
772 the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the  
773 town complete the plan review.

774 (ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform  
775 the plan review no later than:

776 (A) for a plan review described in Subsection (3)(a), 14 days from the day on which the  
777 applicant makes the request; or

778 (B) for a plan review described in Subsection (3)(b), 21 days from the day on which the  
779 applicant makes the request.

780 (d) An applicant may:

781 (i) waive the plan review time requirements described in this Subsection (3); or

782 (ii) with the town's consent, establish an alternative plan review time requirement.

783 (4) (a) A town may not enforce a requirement to have a plan review if:

784 (i) the town does not complete the plan review within the time period described in  
785 Subsection (3)(a) or (b); and

786 (ii) a licensed architect or structural engineer, or both when required by law, stamps the  
787 plan.

788 (b) A town may attach to a reviewed plan a list that includes:

789 (i) items with which the town is concerned and may enforce during construction; and

790 (ii) building code violations found in the plan.

791 (c) A town may not require an applicant to redraft a plan if the town requests minor  
792 changes to the plan that the list described in Subsection (4)(b) identifies.

793 Section 13. Section **11-13-602** is amended to read:

794 **11-13-602. Definitions.**

795 As used in this part:

796 (1) "Asset" means funds, money, an account, real or personal property, or personnel.

797 (2) (a) "Associated entity" means a taxed interlocal entity that adopts a segment's  
798 organizing resolution.

799 (b) "Associated entity" does not include any other segment.

800 (3) "Fiduciary duty" means a duty expressly designated as a fiduciary duty of:

801 (a) a director or an officer of a taxed interlocal entity in:

802 (i) the organization agreement of the taxed interlocal entity; or

803 (ii) an agreement executed by the director or the officer and the taxed interlocal entity;

804 or

805 (b) a director or an officer of a segment in:

806 (i) the organizing resolution of the segment; or

807 (ii) an agreement executed by the director or the officer and the segment.

808 (4) "Governing body" means the body established in an organizing resolution to govern  
809 a segment.

810 (5) "Governmental law" means:

811 (a) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal  
812 Organizations, and Other Local Entities Act;

813 (b) Title 63A, Chapter 3, Division of Finance;

- 814 (c) Title 63G, Chapter 6a, Utah Procurement Code;
- 815 (d) a law imposing an obligation on a taxed interlocal entity similar to an obligation  
816 imposed by a law described in Subsection (5)(a), (b), or (c);
- 817 (e) an amendment to or replacement or renumbering of a law described in Subsection  
818 (5)(a), (b), (c), or (d); or
- 819 (f) a law superseding a law described in Subsection (5)(a), (b), (c), or (d).
- 820 (6) "Indexed office" means the address identified under Subsection 63G-7-401(5)(a)(i)  
821 by a segment's associated entity in the associated entity's statement described in Subsection  
822 63G-7-401(5).
- 823 (7) "Organization agreement" means an agreement, as amended, that creates a taxed  
824 interlocal entity.
- 825 (8) "Organizing resolution" means a resolution described in Subsection 11-13-604(1)  
826 that creates a segment.
- 827 (9) "Principal county" means the county in which the indexed office of a segment's  
828 associated entity is located.
- 829 (10) "Project" means:
- 830 (a) the same as that term is defined in Section 11-13-103; or  
831 (b) facilities, improvements, or contracts undertaken by a taxed interlocal entity in  
832 accordance with Subsection 11-13-204(2).
- 833 (11) "Public asset" means:
- 834 (a) an asset used by a public entity;  
835 (b) tax revenue;  
836 (c) state funds; or  
837 (d) public funds.
- 838 (12) "Segment" means a segment created in accordance with Section 11-13-604.
- 839 (13) "Taxed interlocal entity" means:
- 840 (a) a project entity that:  
841 (i) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3,

842 Project Entity Provisions;

843 (ii) does not receive a payment of funds from a federal agency or office, state agency or  
844 office, political subdivision, or other public agency or office other than a payment that does not  
845 materially exceed the greater of the fair market value and the cost of a service provided or  
846 property conveyed by the project entity; and

847 (iii) does not receive, expend, or have the authority to compel payment from tax  
848 revenue; or

849 (b) an interlocal entity that:

850 (i) was created before 1981 for the purpose of providing power supply at wholesale to  
851 its members;

852 (ii) does not receive a payment of funds from a federal agency or office, state agency or  
853 office, political subdivision, or other public agency or office other than a payment that does not  
854 materially exceed the greater of the fair market value and the cost of a service provided or  
855 property conveyed by the interlocal entity; and

856 (iii) does not receive, expend, or have the authority to compel payment from tax  
857 revenue.

858 (14) (a) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit,  
859 administer, receive, expend, appropriate, disburse, or have custody.

860 (b) "Use" includes, when constituting a noun, the corresponding nominal form of each  
861 term in Subsection [~~(13)~~] (14)(a), individually.

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

863 **11-17-2. Definitions.**

864 As used in this chapter:

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

866 (2) "Energy efficiency upgrade" means an improvement that is permanently affixed to  
867 real property and that is designed to reduce energy consumption, including:

868 (a) insulation in:

869 (i) a wall, ceiling, roof, floor, or foundation; or

- 870 (ii) a heating or cooling distribution system;
- 871 (b) an insulated window or door, including:
  - 872 (i) a storm window or door;
  - 873 (ii) a multiglazed window or door;
  - 874 (iii) a heat-absorbing window or door;
  - 875 (iv) a heat-reflective glazed and coated window or door;
  - 876 (v) additional window or door glazing;
  - 877 (vi) a window or door with reduced glass area; or
  - 878 (vii) other window or door modifications that reduce energy loss;
- 879 (c) an automatic energy control system;
- 880 (d) in a building or a central plant, a heating, ventilation, or air conditioning and
- 881 distribution system;
- 882 (e) caulking or weatherstripping;
- 883 (f) a light fixture that does not increase the overall illumination of a building unless an
- 884 increase is necessary to conform with the applicable building code;
- 885 (g) an energy recovery system;
- 886 (h) a daylighting system;
- 887 (i) measures to reduce the consumption of water, through conservation or more
- 888 efficient use of water, including:
  - 889 (i) installation of a low-flow toilet or showerhead;
  - 890 (ii) installation of a timer or timing system for a hot water heater; or
  - 891 (iii) installation of a rain catchment system; or
  - 892 (j) any other modified, installed, or remodeled fixture that is approved as a utility
  - 893 cost-savings measure by the governing body.
- 894 (3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or
- 895 state university for the purpose of using a portion, or all or substantially all of the proceeds to
- 896 pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the
- 897 acquisition of facilities of a project, or to create funds for the project itself where appropriate,



898 whether these costs are incurred by the municipality, the county, the state university, the user,  
899 or a designee of the user. If title to or in these facilities at all times remains in the user, the  
900 bonds of the municipality or county shall be secured by a pledge of one or more notes,  
901 debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the  
902 sinking fund or other arrangement as in the judgment of the governing body is appropriate for  
903 the purpose of assuring repayment of the bond obligations to investors in accordance with their  
904 terms.

905 (4) "Governing body" means:

906 (a) for a county, city, town, or metro township, the legislative body of the county, city,  
907 town, or metro township;

908 (b) for the military installation development authority created in Section 63H-1-201,  
909 the [authority] board, as defined in Section 63H-1-102;

910 (c) for a state university except as provided in Subsection (4)(d), the board or body  
911 having the control and supervision of the state university; and

912 (d) for a nonprofit corporation or foundation created by and operating under the  
913 auspices of a state university, the board of directors or board of trustees of that corporation or  
914 foundation.

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

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

924 (6) "Lender" means a trust company, savings bank, savings and loan association, bank,  
925 credit union, or any other lending institution that lends, loans, or leases proceeds of a financing

926 to the user or a user's designee.

927 (7) "Mortgage" means a mortgage, trust deed, or other security device.

928 (8) "Municipality" means any incorporated city, town, or metro township in the state,  
929 including cities or towns operating under home rule charters.

930 (9) "Pollution" means any form of environmental pollution including water pollution,  
931 air pollution, pollution caused by solid waste disposal, thermal pollution, radiation  
932 contamination, or noise pollution.

933 (10) (a) "Project" means:

934 (i) an industrial park, land, interest in land, building, structure, facility, system, fixture,  
935 improvement, appurtenance, machinery, equipment, or any combination of them, whether or  
936 not in existence or under construction:

937 (A) that is suitable for industrial, manufacturing, warehousing, research, business, and  
938 professional office building facilities, commercial, shopping services, food, lodging, low  
939 income rental housing, recreational, or any other business purposes;

940 (B) that is suitable to provide services to the general public;

941 (C) that is suitable for use by any corporation, person, or entity engaged in health care  
942 services, including hospitals, nursing homes, extended care facilities, facilities for the care of  
943 persons with a physical or mental disability, and administrative and support facilities; or

944 (D) that is suitable for use by a state university for the purpose of aiding in the  
945 accomplishment of its authorized academic, scientific, engineering, technical, and economic  
946 development functions;

947 (ii) any land, interest in land, building, structure, facility, system, fixture, improvement,  
948 appurtenance, machinery, equipment, or any combination of them, used by any individual,  
949 partnership, firm, company, corporation, public utility, association, trust, estate, political  
950 subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns,  
951 for the reduction, abatement, or prevention of pollution, including the removal or treatment of  
952 any substance in process material, if that material would cause pollution if used without the  
953 removal or treatment;

- 954 (iii) an energy efficiency upgrade;
- 955 (iv) a renewable energy system;
- 956 (v) facilities, machinery, or equipment, the manufacturing and financing of which will  
957 maintain or enlarge domestic or foreign markets for Utah industrial products; or
- 958 (vi) any economic development or new venture investment fund to be raised other than  
959 from:
- 960 (A) municipal or county general fund money;
- 961 (B) money raised under the taxing power of any county or municipality; or
- 962 (C) money raised against the general credit of any county or municipality.
- 963 (b) "Project" does not include any property, real, personal, or mixed, for the purpose of  
964 the construction, reconstruction, improvement, or maintenance of a public utility as defined in  
965 Section 54-2-1.
- 966 (11) "Renewable energy system" means a product, system, device, or interacting group  
967 of devices that is permanently affixed to real property and that produces energy from renewable  
968 resources, including:
- 969 (a) a photovoltaic system;
- 970 (b) a solar thermal system;
- 971 (c) a wind system;
- 972 (d) a geothermal system, including:
- 973 (i) a direct-use system; or
- 974 (ii) a ground source heat pump system;
- 975 (e) a micro-hydro system; or
- 976 (f) another renewable energy system approved by the governing body.
- 977 (12) "State university" means an institution of higher education as described in Section  
978 53B-2-101 and includes any nonprofit corporation or foundation created by and operating  
979 under their authority.
- 980 (13) "User" means the person, whether natural or corporate, who will occupy, operate,  
981 maintain, and employ the facilities of, or manage and administer a project after the financing,

982 acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

983 Section 15. Section **11-59-202** is amended to read:

984 **11-59-202. Authority powers.**

985 The authority may:

986 (1) as provided in this chapter, plan, manage, and implement the development of the  
987 point of the mountain state land, including the ongoing operation of facilities on the point of  
988 the mountain state land;

989 (2) undertake, or engage a consultant to undertake, any study, effort, or activity the  
990 board considers appropriate to assist or inform the board about any aspect of the proposed  
991 development of the point of the mountain state land, including the best development model and  
992 financial projections relevant to the authority's efforts to fulfill its duties and responsibilities  
993 under this section and Section [11-59-203](#);

994 (3) sue and be sued;

995 (4) enter into contracts generally;

996 (5) buy, obtain an option upon, or otherwise acquire any interest in real or personal  
997 property, as necessary to accomplish the duties and responsibilities of the authority, including  
998 an interest in real property, apart from point of the mountain state land, or personal property,  
999 outside point of the mountain state land, for publicly owned infrastructure and improvements,  
1000 if the board considers the purchase, option, or other interest acquisition to be necessary for  
1001 fulfilling the authority's development objectives;

1002 (6) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or  
1003 personal property;

1004 (7) enter into a lease agreement on real or personal property, either as lessee or lessor;

1005 (8) provide for the development of the point of the mountain state land under one or  
1006 more contracts;

1007 (9) exercise powers and perform functions under a contract, as authorized in the  
1008 contract;

1009 (10) accept financial or other assistance from any public or private source for the

1010 authority's activities, powers, and duties, and expend any funds so received for any of the  
1011 purposes of this chapter;

1012 (11) borrow money, contract with, or accept financial or other assistance from the  
1013 federal government, a public entity, or any other source for any of the purposes of this chapter  
1014 and comply with any conditions of the loan, contract, or assistance;

1015 (12) issue bonds to finance the undertaking of any development objectives of the  
1016 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and  
1017 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

1018 (13) hire employees, including contract employees, in addition to or in place of staff  
1019 provided under Section [11-59-304](#);

1020 (14) transact other business and exercise all other powers provided for in this chapter;

1021 (15) enter into a development agreement with a developer of some or all of the point of  
1022 the mountain state land;

1023 (16) provide for or finance an energy efficiency upgrade, a renewable energy system, or  
1024 electric vehicle charging infrastructure as defined in Section [~~11-42-102~~] [11-42a-102](#), in  
1025 accordance with Title 11, Chapter [~~42, Assessment Area Act~~] [42a, Commercial Property](#)  
1026 [Assessed Clean Energy Act](#);

1027 (17) exercise powers and perform functions that the authority is authorized by statute  
1028 to exercise or perform;

1029 (18) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal  
1030 Cooperation Act, with one or more local government entities for the delivery of services to the  
1031 point of the mountain state land; and

1032 (19) enter into an agreement with the federal government or an agency of the federal  
1033 government, as the board considers necessary or advisable, to enable or assist the authority to  
1034 exercise its powers or fulfill its duties and responsibilities under this chapter.

1035 Section 16. Section **13-32a-104** is amended to read:

1036 **13-32a-104. Tickets required to be maintained -- Contents -- Identification of**  
1037 **items -- Prohibition against pawning or selling certain property.**

- 1038 (1) A pawn or secondhand business shall keep a ticket for property a person pawns or  
1039 sells to the pawn or secondhand business. A pawn or secondhand business shall document on  
1040 the ticket the following information regarding the property:
- 1041 (a) the date and time of the transaction;
  - 1042 (b) whether the transaction is a pawn or purchase;
  - 1043 (c) the ticket number;
  - 1044 (d) the date by which the property must be redeemed, if the property is pawned;
  - 1045 (e) the following information regarding the individual who pawns or sells the property:
    - 1046 (i) the individual's full name and date of birth as they appear on the individual's  
1047 identification and the individual's residence address and telephone number;
    - 1048 (ii) the unique number and type of identification presented to the pawn or secondhand  
1049 business;
    - 1050 (iii) the individual's signature; and
    - 1051 (iv) subject to Subsection (6), a legible fingerprint of the individual's right index finger,  
1052 or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a  
1053 notation identifying the fingerprint and the reason why the right index [~~finger's print~~]  
1054 fingerprint was unavailable;
  - 1055 (f) the amount loaned on, paid for, or value for trade-in of each article of property;
  - 1056 (g) the full name of the individual conducting the pawn transaction or secondhand  
1057 merchandise transaction on behalf of the pawn or secondhand business or the initials or a  
1058 unique identifying number of the individual, if the pawn or secondhand business maintains a  
1059 record of the initials or unique identifying number of the individual; and
  - 1060 (h) an accurate description of each article of property, with available identifying marks,  
1061 including:
    - 1062 (i) names, brand names, numbers, serial numbers, model numbers, color,  
1063 manufacturers' names, and size;
    - 1064 (ii) metallic composition, and any jewels, stones, or glass;
    - 1065 (iii) any other marks of identification or indicia of ownership on the property;

1066 (iv) the weight of the property, if the payment is based on weight;  
1067 (v) any other unique identifying feature;  
1068 (vi) gold content, if indicated; or  
1069 (vii) if multiple articles of property of a similar nature are delivered together in one  
1070 transaction and the articles of property do not bear serial or model numbers and do not include  
1071 precious metals or gemstones, such as musical or video recordings, books, or hand tools, the  
1072 description of the articles is adequate if it includes the quantity of the articles and a description  
1073 of the type of articles delivered.

1074 (2) (a) A pawn or secondhand business may not accept property if, upon inspection, it  
1075 is apparent that:

1076 (i) a serial number or another form of indicia of ownership has been removed, altered,  
1077 defaced, or obliterated;

1078 (ii) the property is not a numismatic item and has indicia of being new, but is not  
1079 accompanied by a written receipt or other satisfactory proof of ownership other than the seller's  
1080 own statement; or

1081 (iii) except as provided in Subsection [13-32a-103.1\(3\)](#), the property is a gift card,  
1082 transaction card, or other physical or digital card or certificate evidencing store credit.

1083 (b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or  
1084 secondhand business is the original seller of the property and is accepting a return of the  
1085 property as provided by the pawn or secondhand business' established return policy.

1086 (c) Property is presumed to have had indicia of being new at the time of a transaction if  
1087 the property is subsequently advertised by the pawn or secondhand business as being new.

1088 (3) (a) An individual may not pawn or sell any property to a business regulated under  
1089 this chapter if the property is subject to being turned over to a law enforcement agency in  
1090 accordance with Title 77, Chapter 24a, Lost or Mislaid Personal Property.

1091 (b) If an individual attempts to sell or pawn property to a business regulated under this  
1092 chapter and the employee or owner of the business knows or has reason to know that the  
1093 property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or

1094 owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid  
1095 Personal Property, and may not receive the property in pawn or sale.

1096 (4) A coin dealer is subject to Section 13-32a-104.5 and not subject to this section.

1097 (5) A violation of this section is a class B misdemeanor and is also subject to civil  
1098 penalties under Section 13-32a-110.

1099 (6) (a) On and after January 1, 2020:

1100 (i) a pawn or secondhand business shall obtain an electronic legible fingerprint of the  
1101 individual's right index finger that can be submitted to the central database at the same time the  
1102 other information is submitted under this section, or if the right index finger cannot be  
1103 fingerprinted, an electronic legible fingerprint of the individual with a notation on the ticket  
1104 identifying the fingerprint and the reason why a right index fingerprint is unavailable; and

1105 (ii) the electronic fingerprint is not required on the ticket.

1106 (b) On and after January 1, 2020, a pawn or secondhand business shall submit an  
1107 electronic legible fingerprint obtained under Subsection (6)(a) to the central database.

1108 (7) (a) As used in this Subsection (7), "jewelry" means:

1109 (i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry  
1110 and watches; or

1111 (ii) any jewelry that the pawn or secondhand business is allowed to sell under  
1112 Subsection 13-32a-109(1), including scrap jewelry and watches.

1113 (b) On and after January 1, 2020, a pawn or secondhand business shall obtain:

1114 (i) a color digital photograph clearly and accurately depicting:

1115 (A) each item of jewelry; and

1116 (B) if an item of jewelry has one or more engravings, an additional color digital  
1117 photograph specifically depicting any engraving; and

1118 (ii) a color digital photograph of an item that bears an identifying mark, including:

1119 (A) a serial number, engraving, owner label, or similar identifying mark; and

1120 (B) an additional photograph that clearly depicts the identifying mark described in  
1121 Subsection (7)(b)(ii)(A).



1122 Section 17. Section **13-32a-110** is amended to read:

1123 **13-32a-110. Administrative or civil penalties -- Criminal prosecution.**

1124 (1) A violation of any of the following sections is subject to an administrative or civil  
1125 penalty of not more than \$500:

1126 (a) Section [13-32a-104](#), ticket required to be maintained;

1127 (b) Section [13-32a-104.5](#), ticket by coin dealer to be maintained;

1128 (c) Section [13-32a-106](#), transaction information provided to law enforcement;

1129 (d) Section [13-32a-108](#), retention of records;

1130 (e) Section [13-32a-109](#), holding period for pawned or purchased property;

1131 (f) Section [13-32a-110.5](#), transactions with certain individuals prohibited;

1132 (g) Section [13-32a-111](#), payment of fees as required; or

1133 (h) Section [~~13-32a-112~~] [13-32a-112.1](#), training requirements for pawn or secondhand  
1134 business employees and officers of participating law enforcement agencies.

1135 (2) This section does not prohibit civil action by a governmental entity regarding the  
1136 pawn or secondhand business' operation or licenses.

1137 (3) The imposition of civil penalties under this section does not prohibit criminal  
1138 prosecution by a governmental entity for criminal violations of this chapter.

1139 Section 18. Section **13-32a-111** is amended to read:

1140 **13-32a-111. Fees to fund account.**

1141 (1) (a) A pawn or secondhand business in operation shall pay an annual fee, no more  
1142 than \$500, set in accordance with Section [63J-1-504](#).

1143 (b) A law enforcement agency within Utah that participates in the use of the central  
1144 database shall pay an annual fee set in accordance with Section [63J-1-504](#).

1145 (c) A law enforcement agency outside Utah that requests access to the central database  
1146 shall pay an annual fee set in accordance with Section [63J-1-504](#).

1147 (2) A fee paid under Subsection (1) shall be paid annually to the division on or before  
1148 January 31.

1149 (3) A fee received by the division under this section shall be deposited into the account.

1150 (4) The division may only increase fees for a [pawshop] pawn or secondhand business  
1151 under Section 63J-1-504.

1152 Section 19. Section 13-32a-112 is amended to read:

1153 **13-32a-112. Pawnshop and Secondhand Merchandise Advisory Board.**

1154 (1) There is created within the division the "Pawnshop and Secondhand Merchandise  
1155 Advisory Board."

1156 (2) The board consists of seven voting members appointed by the executive director of  
1157 the Department of Commerce:

1158 (a) one law enforcement officer whose work regularly involves pawn or secondhand  
1159 business, recommended by the Utah Chiefs of Police Association;

1160 (b) one law enforcement officer whose work regularly involves pawn or secondhand  
1161 business, recommended by the Utah Sheriffs Association;

1162 (c) one state, county, or municipal prosecutor, recommended by a prosecutors'  
1163 association or council;

1164 (d) one pawnbroker, recommended by the pawn industry;

1165 (e) one secondhand merchandise dealer, recommended by the secondhand merchandise  
1166 industry;

1167 (f) one coin dealer, recommended by the Utah Coin Dealers Association; and

1168 (g) one representative from the pawn or secondhand merchandise industry at large,  
1169 recommended by the pawn or secondhand merchandise industry.

1170 (3) After receiving a recommendation for a member by a respective association,  
1171 council, or industry for the board, the executive director may:

1172 (a) decline the recommendation; and

1173 (b) request another recommendation from the respective association, council, or  
1174 industry.

1175 (4) (a) A member of the board shall be appointed to a term of not more than four years,  
1176 and may be reappointed upon expiration of the member's term.

1177 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director of the

1178 Department of Commerce shall, at the time of appointments or reappointments, adjust the  
1179 length of terms to ensure that the terms of board members are staggered so that approximately  
1180 half of the board is appointed every two years.

1181 (c) When a vacancy occurs in the membership for any reason, the executive director of  
1182 the Department of Commerce shall appoint a member for the unexpired term.

1183 (d) The executive director of the Department of Commerce may remove a member and  
1184 replace the member in accordance with this section for the following reasons:

1185 (i) the member fails or refuses to fulfill the duties of a board member, including  
1186 attendance at board meetings; or

1187 (ii) the member, an entity owned by the member, an entity that the member is  
1188 employed by, or an entity that the member is representing, engages in a violation of this chapter  
1189 or Section [76-6-408](#).

1190 (e) Notwithstanding Subsection (4)(d), members of the board as of May 13, 2019, are  
1191 removed from the board and the executive director of the Department of Commerce shall  
1192 appoint the board members in accordance with this section.

1193 (5) (a) The board shall elect one voting member as the chair of the board by a majority  
1194 of the members present at the board's first meeting each year.

1195 (b) The chair shall preside over the board for a period of one year.

1196 (c) The board shall meet quarterly upon the call of the chair.

1197 (d) A quorum of five members is required for the board to take action. An action taken  
1198 by majority of a quorum present at a meeting constitutes an action of the board.

1199 (6) (a) The duties and powers of the board include the following:

1200 (i) recommending to the division appropriate rules regarding the administration and  
1201 enforcement of this chapter;

1202 (ii) recommending to the division changes related to the central database; and

1203 (iii) advising the division on matters related to the pawn and secondhand merchandise  
1204 industries.

1205 (b) This Subsection (6) does not require the board's approval to act on a rule or amend

1206 this chapter.

1207 (7) A pawn or secondhand business may file with the board complaints regarding law  
1208 enforcement agency practices perceived to be inconsistent with this chapter. The board may  
1209 refer the complaints to the Peace Officers Standards and Training Division.

1210 Section 20. Section ~~16-6a-1008.7~~ is amended to read:

1211 **16-6a-1008.7. Conversion to or from a domestic limited liability company.**

1212 (1) (a) A domestic nonprofit corporation may convert to a domestic limited liability  
1213 company subject to [~~Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or~~]  
1214 Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, [~~as appropriate~~]  
1215 pursuant to Section ~~48-3a-1405~~, by complying with:

1216 (i) this Subsection (1); and

1217 (ii) Section [~~48-2c-1401 or~~] ~~48-3a-1041~~.

1218 (b) If a domestic nonprofit corporation converts to a domestic limited liability company  
1219 in accordance with this Subsection (1), the articles of conversion or statement of conversion, as  
1220 applicable, shall:

1221 (i) comply with [~~Section 48-2c-1402 or~~] Sections ~~48-3a-1042~~ and ~~48-3a-1045~~; and

1222 (ii) if the corporation has any members, provide for:

1223 (A) the cancellation of any membership; or

1224 (B) the conversion of any membership in the domestic nonprofit corporation to a  
1225 membership interest in the domestic limited liability company.

1226 (c) Before articles of conversion or statement of conversion may be filed with the  
1227 division, the conversion shall be approved:

1228 (i) in the manner provided for the articles of incorporation or bylaws of the domestic  
1229 nonprofit corporation; or

1230 (ii) if the articles of incorporation or bylaws of the domestic nonprofit corporation do  
1231 not provide the method for approval:

1232 (A) if the domestic nonprofit corporation has voting members, by all of the members of  
1233 the domestic nonprofit corporation regardless of limitations or restrictions on the voting rights

1234 of the members; or

1235 (B) if the nonprofit domestic corporation does not have voting members, by a majority  
1236 of:

1237 (I) the directors in office at the time the conversion is approved by the board of  
1238 directors; or

1239 (II) if directors have not been appointed or elected, the incorporators.

1240 (2) A domestic limited liability company may convert to a domestic nonprofit  
1241 corporation subject to this chapter by:

1242 (a) filing articles of incorporation in accordance with this chapter; and

1243 (b) complying with Section [~~48-2c-1406~~ or] 48-3a-1041, [as appropriate] pursuant to  
1244 Section 48-3a-1405.

1245 (3) Any conversion under this section may not result in a violation, directly or  
1246 indirectly, of:

1247 (a) Section 16-6a-1301; or

1248 (b) any other provision of this chapter.

1249 Section 21. Section 17-27a-602 is amended to read:

1250 **17-27a-602. Planning commission preparation and recommendation of**  
1251 **subdivision ordinance -- Adoption or rejection by legislative body.**

1252 (1) A planning commission shall:

1253 (a) review and provide a recommendation to the legislative body on any proposed  
1254 ordinance that regulates the subdivision of land in the [municipality] county;

1255 (b) review and make a recommendation to the legislative body on any proposed  
1256 ordinance that amends the regulation of the subdivision of the unincorporated land in the  
1257 county or, in the case of a mountainous planning district, the mountainous planning district;

1258 (c) provide notice consistent with Section 17-27a-205; and

1259 (d) hold a public hearing on the proposed ordinance before making the planning  
1260 commission's final recommendation to the legislative body.

1261 (2) (a) A legislative body may adopt, modify, revise, or reject an ordinance described in

1262 Subsection (1) that the planning commission recommends.

1263 (b) A legislative body may consider a planning commission's failure to make a timely  
1264 recommendation as a negative recommendation if the legislative body has provided for that  
1265 consideration by ordinance.

1266 Section 22. Section **17-27a-604.5** is amended to read:

1267 **17-27a-604.5. Subdivision plat recording or development activity before required**  
1268 **infrastructure is completed -- Improvement completion assurance -- Improvement**  
1269 **warranty.**

1270 (1) A land use authority shall establish objective inspection standards for acceptance of  
1271 a required landscaping or infrastructure improvement.

1272 (2) (a) Before an applicant conducts any development activity or records a plat, the  
1273 applicant shall:

1274 (i) complete any required landscaping or infrastructure improvements; or

1275 (ii) post an improvement completion assurance for any required landscaping or  
1276 infrastructure improvements.

1277 (b) If an applicant elects to post an improvement completion assurance, the applicant  
1278 shall provide completion assurance for:

1279 (i) completion of 100% of the required landscaping or infrastructure improvements; or

1280 (ii) if the county has inspected and accepted a portion of the landscaping or  
1281 infrastructure improvements, 100% of the incomplete or unaccepted landscaping or  
1282 infrastructure improvements.

1283 (c) A county shall:

1284 (i) establish a minimum of two acceptable forms of completion assurance;

1285 (ii) if an applicant elects to post an improvement completion assurance, allow the  
1286 applicant to post an assurance that meets the conditions of this title, and any local ordinances;

1287 (iii) establish a system for the partial release of an improvement completion assurance  
1288 as portions of required landscaping or infrastructure improvements are completed and accepted  
1289 in accordance with local ordinance; and

1290 (iv) issue or deny a building permit in accordance with Section 17-27a-802 based on  
1291 the installation of landscaping or infrastructure improvements.

1292 (d) A county may not require an applicant to post an improvement completion  
1293 assurance for:

1294 (i) landscaping or an infrastructure improvement that the county has previously  
1295 inspected and accepted;

1296 (ii) infrastructure improvements that are private and not essential or required to meet  
1297 the building code, fire code, flood or storm water management provisions, street and access  
1298 requirements, or other essential necessary public safety improvements adopted in a land use  
1299 regulation; or

1300 (iii) in a [municipality] county where ordinances require all infrastructure  
1301 improvements within the area to be private, infrastructure improvements within a development  
1302 that the [municipality] county requires to be private.

1303 (3) At any time before a county accepts a landscaping or infrastructure improvement,  
1304 and for the duration of each improvement warranty period, the land use authority may require  
1305 the applicant to:

1306 (a) execute an improvement warranty for the improvement warranty period; and

1307 (b) post a cash deposit, surety bond, letter of credit, or other similar security, as  
1308 required by the county, in the amount of up to 10% of the lesser of the:

1309 (i) county engineer's original estimated cost of completion; or

1310 (ii) applicant's reasonable proven cost of completion.

1311 (4) When a county accepts an improvement completion assurance for landscaping or  
1312 infrastructure improvements for a development in accordance with Subsection (2)(c)(ii), the  
1313 county may not deny an applicant a building permit if the development meets the requirements  
1314 for the issuance of a building permit under the building code and fire code.

1315 (5) The provisions of this section do not supersede the terms of a valid development  
1316 agreement, an adopted phasing plan, or the state construction code.

1317 Section 23. Section 17-50-335 is amended to read:

1318           **17-50-335. Energy efficiency upgrade, renewable energy system, or electric**  
1319 **vehicle charging infrastructure.**

1320           A county may provide or finance an energy efficiency upgrade, a renewable energy  
1321 system, or electric vehicle charging infrastructure as defined in Section [~~11-42-102~~]  
1322 [11-42a-102](#), in a designated voluntary assessment area in accordance with Title 11, Chapter  
1323 [~~42, Assessment Area Act~~] 42a, Commercial Property Assessed Clean Energy Act.

1324           Section 24. Section **17B-1-202** is amended to read:

1325           **17B-1-202. Local district may be created -- Services that may be provided --**  
1326 **Limitations.**

1327           (1) (a) A local district may be created as provided in this part to provide within its  
1328 boundaries service consisting of:

- 1329           (i) the operation of an airport;
- 1330           (ii) the operation of a cemetery;
- 1331           (iii) fire protection, paramedic, and emergency services, including consolidated 911  
1332 and emergency dispatch services;
- 1333           (iv) garbage collection and disposal;
- 1334           (v) health care, including health department or hospital service;
- 1335           (vi) the operation of a library;
- 1336           (vii) abatement or control of mosquitos and other insects;
- 1337           (viii) the operation of parks or recreation facilities or services;
- 1338           (ix) the operation of a sewage system;
- 1339           (x) the construction and maintenance of a right-of-way, including:
  - 1340           (A) a curb;
  - 1341           (B) a gutter;
  - 1342           (C) a sidewalk;
  - 1343           (D) a street;
  - 1344           (E) a road;
  - 1345           (F) a water line;



- 1346 (G) a sewage line;
- 1347 (H) a storm drain;
- 1348 (I) an electricity line;
- 1349 (J) a communications line;
- 1350 (K) a natural gas line; or
- 1351 (L) street lighting;
- 1352 (xi) transportation, including public transit and providing streets and roads;
- 1353 (xii) the operation of a system, or one or more components of a system, for the
- 1354 collection, storage, retention, control, conservation, treatment, supplying, distribution, or
- 1355 reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether
- 1356 the system is operated on a wholesale or retail level or both;
- 1357 (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a
- 1358 groundwater right for the development and execution of a groundwater management plan in
- 1359 cooperation with and approved by the state engineer in accordance with Section [73-5-15](#);
- 1360 (xiv) law enforcement service;
- 1361 (xv) subject to Subsection (1)(b), the underground installation of an electric utility line
- 1362 or the conversion to underground of an existing electric utility line;
- 1363 (xvi) the control or abatement of earth movement or a landslide;
- 1364 (xvii) the operation of animal control services and facilities; or
- 1365 (xviii) an energy efficiency upgrade, a renewable energy system, or electric vehicle
- 1366 charging infrastructure as defined in Section [~~11-42-102~~] [11-42a-102](#), in accordance with Title
- 1367 11, Chapter [~~42, Assessment Area Act~~] [42a, Commercial Property Assessed Clean Energy Act](#).
- 1368 (b) Each local district that provides the service of the underground installation of an
- 1369 electric utility line or the conversion to underground of an existing electric utility line shall, in
- 1370 installing or converting the line, provide advance notice to and coordinate with the utility that
- 1371 owns the line.
- 1372 (c) A groundwater management plan described in Subsection (1)(a)(xiii) may include
- 1373 the banking of groundwater rights by a local district in a critical management area as defined in

1374 Section 73-5-15 following the adoption of a groundwater management plan by the state  
1375 engineer under Section 73-5-15.

1376 (i) A local district may manage the groundwater rights it acquires under Subsection  
1377 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan  
1378 described in this Subsection (1)(c).

1379 (ii) A groundwater right held by a local district to satisfy the provisions of a  
1380 groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

1381 (iii) (A) A local district may divest itself of a groundwater right subject to a  
1382 determination that the groundwater right is not required to facilitate the groundwater  
1383 management plan described in this Subsection (1)(c).

1384 (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section  
1385 73-1-4 beginning on the date of divestiture.

1386 (iv) Upon a determination by the state engineer that an area is no longer a critical  
1387 management area as defined in Section 73-5-15, a groundwater right held by the local district is  
1388 subject to Section 73-1-4.

1389 (v) A local district created in accordance with Subsection (1)(a)(xiii) to develop and  
1390 execute a groundwater management plan may hold or acquire a right to surface waters that are  
1391 naturally tributary to the groundwater basin subject to the groundwater management plan if the  
1392 surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in  
1393 accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

1394 (2) For purposes of this section:

1395 (a) "Operation" means all activities involved in providing the indicated service  
1396 including acquisition and ownership of property reasonably necessary to provide the indicated  
1397 service and acquisition, construction, and maintenance of facilities and equipment reasonably  
1398 necessary to provide the indicated service.

1399 (b) "System" means the aggregate of interrelated components that combine together to  
1400 provide the indicated service including, for a sewage system, collection and treatment.

1401 (3) (a) A local district may not be created to provide and may not after its creation

1402 provide more than four of the services listed in Subsection (1).

1403 (b) Subsection (3)(a) may not be construed to prohibit a local district from providing  
1404 more than four services if, before April 30, 2007, the local district was authorized to provide  
1405 those services.

1406 (4) (a) Except as provided in Subsection (4)(b), a local district may not be created to  
1407 provide and may not after its creation provide to an area the same service that may already be  
1408 provided to that area by another political subdivision, unless the other political subdivision  
1409 gives its written consent.

1410 (b) For purposes of Subsection (4)(a), a local district does not provide the same service  
1411 as another political subdivision if it operates a component of a system that is different from a  
1412 component operated by another political subdivision but within the same:

1413 (i) sewage system; or

1414 (ii) water system.

1415 (5) (a) Except for a local district in the creation of which an election is not required  
1416 under Subsection 17B-1-214(3)(d), the area of a local district may include all or part of the  
1417 unincorporated area of one or more counties and all or part of one or more municipalities.

1418 (b) The area of a local district need not be contiguous.

1419 (6) For a local district created before May 5, 2008, the authority to provide fire  
1420 protection service also includes the authority to provide:

1421 (a) paramedic service; and

1422 (b) emergency service, including hazardous materials response service.

1423 (7) A local district created before May 11, 2010, authorized to provide the construction  
1424 and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection  
1425 (1)(a)(x) on or after May 11, 2010.

1426 (8) A local district created before May 10, 2011, authorized to provide culinary,  
1427 irrigation, sewage, or storm water services may provide a service described in Subsection  
1428 (1)(a)(xii) on or after May 10, 2011.

1429 (9) A local district may not be created under this chapter for two years after the date on

1430 which a local district is dissolved as provided in Section 17B-1-217 if the local district  
1431 proposed for creation:

1432 (a) provides the same or a substantially similar service as the dissolved local district;

1433 and

1434 (b) is located in substantially the same area as the dissolved local district.

1435 Section 25. Section 17B-2a-1207 is amended to read:

1436 **17B-2a-1207. Public infrastructure district bonds.**

1437 (1) A public infrastructure district may issue negotiable bonds for the purposes  
1438 described in Section 17B-2a-1206, as provided in, as applicable:

1439 (a) Title 11, Chapter 14, Local Government Bonding Act;

1440 (b) Title 11, Chapter 27, Utah Refunding Bond Act;

1441 (c) Title 11, Chapter 42, Assessment Area Act; and

1442 (d) this section.

1443 (2) A public infrastructure district bond:

1444 (a) shall mature within 40 years of the date of issuance; and

1445 (b) may not be secured by any improvement or facility paid for by the public  
1446 infrastructure district.

1447 (3) (a) A public infrastructure district may issue a limited tax bond, in the same manner  
1448 as a general obligation bond:

1449 (i) with the consent of 100% of surface property owners within the boundaries of the  
1450 public infrastructure district and 100% of the registered voters, if any, within the boundaries of  
1451 the proposed public infrastructure district; or

1452 (ii) upon approval of a majority of the registered voters within the boundaries of the  
1453 public infrastructure district voting in an election held for that purpose under Title 11, Chapter  
1454 14, Local Government Bonding Act.

1455 (b) A limited tax bond described in Subsection (3)(a):

1456 (i) is not subject to the limitation on a general obligation bond described in Subsection  
1457 17B-1-1102(4)(a)(xii); and

1458 (ii) is subject to a limitation, if any, on the principal amount of indebtedness as  
1459 described in the governing document.

1460 (c) Unless limited tax bonds are initially purchased exclusively by one or more  
1461 qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public  
1462 infrastructure district may only issue limited tax bonds in denominations of not less than  
1463 \$500,000, and in integral multiples above \$500,000 of not less than \$1,000 each.

1464 (d) (i) Without any further election or consent of property owners or registered voters,  
1465 a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to  
1466 a general obligation bond if the principal amount of the related limited tax bond together with  
1467 the principal amount of other related outstanding general obligation bonds of the public  
1468 infrastructure district does not exceed 15% of the fair market value of taxable property in the  
1469 public [~~improvement~~] infrastructure district securing the general obligation bonds, determined  
1470 by:

1471 (A) an appraisal from an appraiser who is a member of the Appraisal Institute that is  
1472 addressed to the public infrastructure district or a financial institution; or

1473 (B) the most recent market value of the property from the assessor of the county in  
1474 which the property is located.

1475 (ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is  
1476 sufficient to meet any statutory or constitutional election requirement necessary for the  
1477 issuance of the limited tax bond and any general obligation bond to be issued in place of the  
1478 limited tax bond upon meeting the requirements of this Subsection (3)(d).

1479 (iii) A general obligation bond resulting from a conversion of a limited tax bond under  
1480 this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in  
1481 Subsection [17B-1-1102\(4\)\(a\)\(xii\)](#).

1482 (4) There is no limitation on the duration of revenues that a public infrastructure  
1483 district may receive to cover any shortfall in the payment of principal of and interest on a bond  
1484 that the public infrastructure district issues.

1485 (5) A public infrastructure district is not a municipal corporation for purposes of the

1486 debt limitation of Utah Constitution, Article XIV, Section 4.

1487 (6) The board may, by resolution, delegate to one or more officers of the public  
1488 infrastructure district the authority to:

1489 (a) in accordance and within the parameters set forth in a resolution adopted in  
1490 accordance with Section [11-14-302](#), approve the final interest rate, price, principal amount,  
1491 maturity, redemption features, and other terms of the bond;

1492 (b) approve and execute any document relating to the issuance of a bond; and

1493 (c) approve any contract related to the acquisition and construction of the  
1494 improvements, facilities, or property to be financed with a bond.

1495 (7) (a) Any person may contest the legality of the issuance of a public infrastructure  
1496 district bond or any provisions for the security and payment of the bond for a period of 30 days  
1497 after:

1498 (i) publication of the resolution authorizing the bond; or

1499 (ii) publication of a notice of bond containing substantially the items required under  
1500 Subsection [11-14-316\(2\)](#).

1501 (b) After the 30-day period described in Subsection (7)(a), no person may bring a  
1502 lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any  
1503 reason.

1504 (8) (a) In the event of any statutory change in the methodology of assessment or  
1505 collection of property taxes in a manner that reduces the amounts which are devoted or pledged  
1506 to the repayment of limited tax bonds, a public infrastructure district may charge a rate  
1507 sufficient to receive the amount of property taxes or assessment the public infrastructure  
1508 district would have received before the statutory change in order to pay the debt service on  
1509 outstanding limited tax bonds.

1510 (b) The rate increase described in Subsection (8)(a) may exceed the limit described in  
1511 Section [17B-2a-1209](#).

1512 (c) The public infrastructure district may charge the rate increase described in  
1513 Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities,

1514 together with applicable interest, are fully met and discharged.

1515 Section 26. Section **17D-1-103** is amended to read:

1516 **17D-1-103. Special service district status, powers, and duties -- Registration as a**  
1517 **limited purpose entity -- Limitation on districts providing jail service.**

1518 (1) A special service district:

1519 (a) is:

1520 (i) a body corporate and politic with perpetual succession, separate and distinct from  
1521 the county or municipality that creates it;

1522 (ii) a quasi-municipal corporation; and

1523 (iii) a political subdivision of the state; and

1524 (b) may sue and be sued.

1525 (2) A special service district may:

1526 (a) exercise the power of eminent domain possessed by the county or municipality that  
1527 creates the special service district;

1528 (b) enter into a contract that the governing authority considers desirable to carry out  
1529 special service district functions, including a contract:

1530 (i) with the United States or an agency of the United States, the state, an institution of  
1531 higher education, a county, a municipality, a school district, a local district, another special  
1532 service district, or any other political subdivision of the state; or

1533 (ii) that includes provisions concerning the use, operation, and maintenance of special  
1534 service district facilities and the collection of fees or charges with respect to commodities,  
1535 services, or facilities that the district provides;

1536 (c) acquire or construct facilities;

1537 (d) acquire real or personal property, or an interest in real or personal property,  
1538 including water and water rights, whether by purchase, lease, gift, devise, bequest, or  
1539 otherwise, and whether the property is located inside or outside the special service district, and  
1540 own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

1541 (e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the

- 1542 special service district's property or assets, including water and water rights;
- 1543       (f) mortgage, pledge, or otherwise encumber all or any part of the special service
- 1544 district's property or assets, including water and water rights;
- 1545       (g) enter into a contract with respect to the use, operation, or maintenance of all or any
- 1546 part of the special service district's property or assets, including water and water rights;
- 1547       (h) accept a government grant or loan and comply with the conditions of the grant or
- 1548 loan;
- 1549       (i) use an officer, employee, property, equipment, office, or facility of the county or
- 1550 municipality that created the special service district, subject to reimbursement as provided in
- 1551 Subsection [~~(3)~~] (4);
- 1552       (j) employ one or more officers, employees, or agents, including one or more
- 1553 engineers, accountants, attorneys, or financial consultants, and establish their compensation;
- 1554       (k) designate an assessment area and levy an assessment as provided in Title 11,
- 1555 Chapter 42, Assessment Area Act;
- 1556       (l) contract with a franchised, certificated public utility for the construction and
- 1557 operation of an electrical service distribution system within the special service district;
- 1558       (m) borrow money and incur indebtedness;
- 1559       (n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of
- 1560 acquiring, constructing, and equipping any of the facilities required for the services the special
- 1561 service district is authorized to provide, including:
- 1562       (i) bonds payable in whole or in part from taxes levied on the taxable property in the
- 1563 special service district;
- 1564       (ii) bonds payable from revenues derived from the operation of revenue-producing
- 1565 facilities of the special service district;
- 1566       (iii) bonds payable from both taxes and revenues;
- 1567       (iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable
- 1568 property in the special service district;
- 1569       (v) tax anticipation notes;



1570 (vi) bond anticipation notes;  
1571 (vii) refunding bonds;  
1572 (viii) special assessment bonds; and  
1573 (ix) bonds payable in whole or in part from mineral lease payments as provided in  
1574 Section [11-14-308](#);  
1575 (o) except as provided in Subsection (5), impose fees or charges or both for  
1576 commodities, services, or facilities that the special service district provides;  
1577 (p) provide to an area outside the special service district's boundary, whether inside or  
1578 outside the state, a service that the special service district is authorized to provide within its  
1579 boundary, if the governing body makes a finding that there is a public benefit to providing the  
1580 service to the area outside the special service district's boundary;  
1581 (q) provide other services that the governing body determines will more effectively  
1582 carry out the purposes of the special service district; and  
1583 (r) adopt an official seal for the special service district.  
1584 (3) (a) Each special service district shall register and maintain the special service  
1585 district's registration as a limited purpose entity, in accordance with Section [67-1a-15](#).  
1586 (b) A special service district that fails to comply with Subsection (3)(a) or Section  
1587 [67-1a-15](#) is subject to enforcement by the state auditor, in accordance with Section [67-3-1](#).  
1588 (4) Each special service district that uses an officer, employee, property, equipment,  
1589 office, or facility of the county or municipality that created the special service district shall  
1590 reimburse the county or municipality a reasonable amount for what the special service district  
1591 uses.  
1592 (5) (a) A special service district that provides jail service as provided in Subsection  
1593 [17D-1-201](#)(10) may not impose a fee or charge for the service it provides.  
1594 (b) Subsection (5)(a) may not be construed to limit a special service district that  
1595 provides jail service from:  
1596 (i) entering into a contract with the federal government, the state, or a political  
1597 subdivision of the state to provide jail service for compensation; or

1598 (ii) receiving compensation for jail service it provides under a contract described in  
1599 Subsection (5)(b)(i).

1600 Section 27. Section **17D-1-201** is amended to read:

1601 **17D-1-201. Services that a special service district may be created to provide.**

1602 As provided in this part, a county or municipality may create a special service district to  
1603 provide any combination of the following services:

1604 (1) water;

1605 (2) sewerage;

1606 (3) drainage;

1607 (4) flood control;

1608 (5) garbage collection and disposal;

1609 (6) health care;

1610 (7) transportation, including the receipt of federal secure rural school funds under

1611 Section [51-9-603](#) for the purposes of constructing, improving, repairing, or maintaining public  
1612 roads;

1613 (8) recreation;

1614 (9) fire protection, including:

1615 (a) emergency medical services, ambulance services, and search and rescue services, if  
1616 fire protection service is also provided;

1617 (b) Firewise Communities programs and the development of community wildfire  
1618 protection plans; and

1619 (c) the receipt of federal secure rural school funds as provided under Section [51-9-603](#)  
1620 for the purposes of carrying out Firewise Communities programs, developing community  
1621 wildfire protection plans, and performing emergency services, including firefighting on federal  
1622 land and other services authorized under this Subsection (9);

1623 (10) providing, operating, and maintaining correctional and rehabilitative facilities and  
1624 programs for municipal, state, and other detainees and prisoners;

1625 (11) street lighting;

- 1626 (12) consolidated 911 and emergency dispatch;
- 1627 (13) animal shelter and control;
- 1628 (14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease
- 1629 Funds, and expending those funds to provide construction and maintenance of public facilities,
- 1630 traditional governmental services, and planning, as a means for mitigating impacts from
- 1631 extractive mineral industries;
- 1632 (15) in a county of the first class, extended police protection;
- 1633 (16) control or abatement of earth movement or a landslide;
- 1634 (17) an energy efficiency upgrade, a renewable energy system, or electric vehicle
- 1635 charging infrastructure as defined in Section ~~[11-42-102]~~ [11-42a-102](#), in accordance with Title
- 1636 11, Chapter ~~[42, Assessment Area Act]~~ [42a, Commercial Property Assessed Clean Energy Act](#);
- 1637 or
- 1638 (18) cemetery.

1639 Section 28. Section **19-1-404** is amended to read:

1640 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

1641 (1) The department shall:

1642 (a) administer the fund created in Section [19-1-403](#) to encourage government officials

1643 and private sector business vehicle owners and operators to obtain and use clean fuel vehicles;

1644 and

1645 (b) by following the procedures and requirements of Title 63G, Chapter 3, Utah

1646 Administrative Rulemaking Act, make rules:

1647 (i) specifying the amount of money in the fund to be dedicated annually for grants;

1648 ~~[(ii) limiting the amount of a grant given to any person claiming a tax credit under~~

1649 ~~Section [59-7-605](#) or [59-10-1009](#) for the motor vehicle for which a grant is requested to assure~~

1650 ~~that the sum of the tax credit and grant does not exceed:]~~

1651 ~~[(A) 50% of the incremental cost of the OEM vehicle; or]~~

1652 ~~[(B) 50% of the cost of conversion equipment;]~~

1653 ~~[(iii)]~~ (ii) limiting the number of motor vehicles per fleet operator that may be eligible

1654 for a grant in a year;

1655        [~~(iv)~~] (iii) specifying criteria the department shall consider in prioritizing and awarding

1656 loans and grants;

1657        [~~(v)~~] (iv) specifying repayment periods;

1658        [~~(vi)~~] (v) specifying procedures for:

1659        (A) awarding loans and grants; and

1660        (B) collecting loans; and

1661        [~~(vii)~~] (vi) requiring all loan and grant applicants to:

1662        (A) apply on forms provided by the department;

1663        (B) agree in writing to use the clean fuel for which each vehicle is converted or

1664 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled

1665 beginning from the time of conversion or purchase of the vehicle;

1666        (C) agree in writing to notify the department if a vehicle converted or purchased using

1667 loan or grant proceeds becomes inoperable through mechanical failure or accident and to

1668 pursue a remedy outlined in department rules;

1669        (D) provide reasonable data to the department on a vehicle converted or purchased

1670 with loan or grant proceeds; and

1671        (E) submit a vehicle converted or purchased with loan or grant proceeds to inspections

1672 by the department as required in department rules and as necessary for administration of the

1673 loan and grant program.

1674        (2) (a) When developing repayment schedules for the loans, the department shall

1675 consider the projected savings from use of the clean vehicle.

1676        (b) A repayment schedule may not exceed 10 years.

1677        (c) The department shall make a loan from the fund for a private sector vehicle at an

1678 interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as

1679 determined the month immediately preceding the closing date of the loan.

1680        (d) The department shall make a loan from the fund for a government vehicle with no

1681 interest rate.

- 1682 (3) The Division of Finance shall:
- 1683 (a) collect and account for the loans; and
- 1684 (b) have custody of all loan documents, including all notes and contracts, evidencing
- 1685 the indebtedness of the fund.

1686 Section 29. Section **19-2-104** is amended to read:

1687 **19-2-104. Powers of board.**

1688 (1) The board may make rules in accordance with Title 63G, Chapter 3, Utah

1689 Administrative Rulemaking Act:

1690 (a) regarding the control, abatement, and prevention of air pollution from all sources

1691 and the establishment of the maximum quantity of air pollutants that may be emitted by an air

1692 pollutant source;

1693 (b) establishing air quality standards;

1694 (c) requiring persons engaged in operations that result in air pollution to:

1695 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

1696 (ii) file periodic reports containing information relating to the rate, period of emission,

1697 and composition of the air pollutant; and

1698 (iii) provide access to records relating to emissions which cause or contribute to air

1699 pollution;

1700 (d) (i) implementing:

1701 (A) Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency

1702 Response, 15 U.S.C. 2601 et seq.;

1703 (B) 40 C.F.R. Part 763, Asbestos; and

1704 (C) 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants,

1705 Subpart M, National Emission Standard for Asbestos; and

1706 (ii) reviewing and approving asbestos management plans submitted by local education

1707 agencies under the Toxic Substances Control Act, Subchapter II, Asbestos Hazard Emergency

1708 Response, 15 U.S.C. 2601 et seq.;

1709 (e) establishing a requirement for a diesel emission opacity inspection and maintenance

1710 program for diesel-powered motor vehicles;

1711 (f) implementing an operating permit program as required by and in conformity with  
1712 Titles IV and V of the federal Clean Air Act Amendments of 1990;

1713 (g) establishing requirements for county emissions inspection and maintenance  
1714 programs after obtaining agreement from the counties that would be affected by the  
1715 requirements;

1716 (h) with the approval of the governor, implementing in air quality nonattainment areas  
1717 employer-based trip reduction programs applicable to businesses having more than 100  
1718 employees at a single location and applicable to federal, state, and local governments to the  
1719 extent necessary to attain and maintain ambient air quality standards consistent with the state  
1720 implementation plan and federal requirements under the standards set forth in Subsection (2);

1721 (i) implementing lead-based paint training, certification, and performance requirements  
1722 in accordance with 15 U.S.C. 2601 et seq., Toxic Substances Control Act, Subchapter IV --  
1723 Lead Exposure Reduction, Sections 402 and 406; and

1724 (j) to implement the requirements of Section [19-2-107.5](#).

1725 (2) When implementing Subsection (1)(h) the board shall take into consideration:

1726 (a) the impact of the business on overall air quality; and

1727 (b) the need of the business to use automobiles in order to carry out its business  
1728 purposes.

1729 (3) (a) The board may:

1730 (i) hold a hearing that is not an adjudicative proceeding relating to any aspect of, or  
1731 matter in, the administration of this chapter;

1732 (ii) recommend that the director:

1733 (A) issue orders necessary to enforce the provisions of this chapter;

1734 (B) enforce the orders by appropriate administrative and judicial proceedings;

1735 (C) institute judicial proceedings to secure compliance with this chapter; or

1736 (D) advise, consult, contract, and cooperate with other agencies of the state, local  
1737 governments, industries, other states, interstate or interlocal agencies, the federal government,

1738 or interested persons or groups; and

1739 (iii) establish certification requirements for asbestos project monitors, which shall

1740 provide for experience-based certification of a person who:

1741 (A) receives relevant asbestos training, as defined by rule; and

1742 (B) has acquired a minimum of 1,000 hours of asbestos project monitoring related

1743 work experience.

1744 (b) The board shall:

1745 (i) to ensure compliance with applicable statutes and regulations:

1746 (A) review a settlement negotiated by the director in accordance with Subsection

1747 [19-2-107\(2\)\(b\)\(viii\)](#) that requires a civil penalty of \$25,000 or more; and

1748 (B) approve or disapprove the settlement;

1749 (ii) encourage voluntary cooperation by persons and affected groups to achieve the

1750 purposes of this chapter;

1751 (iii) meet the requirements of federal air pollution laws;

1752 (iv) by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

1753 Act, establish work practice and certification requirements for persons who:

1754 (A) contract for hire to conduct demolition, renovation, salvage, encapsulation work

1755 involving friable asbestos-containing materials, or asbestos inspections if:

1756 (I) the contract work is done on a site other than a residential property with four or

1757 fewer units; or

1758 (II) the contract work is done on a residential property with four or fewer units where a

1759 tested sample contained greater than 1% of asbestos;

1760 (B) conduct work described in Subsection (3)(b)(iv)(A) in areas to which the general

1761 public has unrestrained access or in school buildings that are subject to the federal Asbestos

1762 Hazard Emergency Response Act of 1986;

1763 (C) conduct asbestos inspections in facilities subject to 15 U.S.C. 2601 et seq., Toxic

1764 Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

1765 (D) conduct lead-based paint inspections in facilities subject to 15 U.S.C. 2601 et seq.,

1766 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

1767 (v) establish certification requirements for a person required under 15 U.S.C. 2601 et  
1768 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to  
1769 be accredited as an inspector, management planner, abatement project designer, asbestos  
1770 abatement contractor and supervisor, or an asbestos abatement worker;

1771 [~~(vi) establish certification procedures and requirements for certification of the~~  
1772 ~~conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the~~  
1773 ~~tax credit granted in Section 59-7-605 or 59-10-1009;]~~

1774 [(vii)] (vi) establish certification requirements for a person required under 15 U.S.C.  
1775 2601 et seq., Toxic Control Act, Subchapter IV - Lead Exposure Reduction, to be accredited as  
1776 an inspector, risk assessor, supervisor, project designer, abatement worker, renovator, or dust  
1777 sampling technician; and

1778 [(viii)] (vii) assist the State Board of Education in adopting school bus idling reduction  
1779 standards and implementing an idling reduction program in accordance with Section  
1780 41-6a-1308.

1781 (4) A rule adopted under this chapter shall be consistent with provisions of federal  
1782 laws, if any, relating to control of motor vehicles or motor vehicle emissions.

1783 (5) Nothing in this chapter authorizes the board to require installation of or payment for  
1784 any monitoring equipment by the owner or operator of a source if the owner or operator has  
1785 installed or is operating monitoring equipment that is equivalent to equipment which the board  
1786 would require under this section.

1787 (6) (a) The board may not require testing for asbestos or related materials on a  
1788 residential property with four or fewer units, unless:

1789 (i) the property's construction was completed before January 1, 1981; or

1790 (ii) the testing is for:

1791 (A) a sprayed-on or painted on ceiling treatment that contained or may contain asbestos  
1792 fiber;

1793 (B) asbestos cement siding or roofing materials;



1794 (C) resilient flooring products including vinyl asbestos tile, sheet vinyl products,  
1795 resilient flooring backing material, whether attached or unattached, and mastic;

1796 (D) thermal-system insulation or tape on a duct or furnace; or

1797 (E) vermiculite type insulation materials.

1798 (b) A residential property with four or fewer units is subject to an abatement rule made  
1799 under Subsection (1) or (3)(b)(iv) if:

1800 (i) a sample from the property is tested for asbestos; and

1801 (ii) the sample contains asbestos measuring greater than 1%.

1802 (7) The board may not issue, amend, renew, modify, revoke, or terminate any of the  
1803 following that are subject to the authority granted to the director under Section 19-2-107 or  
1804 19-2-108:

1805 (a) a permit;

1806 (b) a license;

1807 (c) a registration;

1808 (d) a certification; or

1809 (e) another administrative authorization made by the director.

1810 (8) A board member may not speak or act for the board unless the board member is  
1811 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

1812 (9) Notwithstanding Subsection (7), the board may exercise all authority granted to the  
1813 board by a federally enforceable state implementation plan.

1814 Section 30. Section 19-6-102.1 is amended to read:

1815 **19-6-102.1. Treatment and disposal -- Exclusions.**

1816 As used in Subsections [~~19-6-104(3)(e)(ii)(B)~~], 19-6-108(3)(b), 19-6-108(3)(c)(ii)(B),

1817 and 19-6-119(1)(a), the term "treatment [~~and~~] or disposal" specifically excludes the recycling,

1818 use, reuse, or reprocessing of fly ash waste, bottom ash waste, slag waste, or flue gas emission

1819 control waste generated primarily from the combustion of coal or other fossil fuels; waste from

1820 the extraction, beneficiation, and processing of ores and minerals; or cement kiln dust,

1821 including recycle, reuse, use, or reprocessing for road sanding, sand blasting, road construction,

1822 railway ballast, construction fill, aggregate, and other construction-related purposes.

1823 Section 31. Section **19-6-104** is amended to read:

1824 **19-6-104. Powers of board -- Creation of statewide solid waste management plan.**

1825 (1) The board may:

1826 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

1827 Rulemaking Act, that are necessary to implement the provisions of the Radiation Control Act;

1828 (b) recommend that the director:

1829 (i) issue orders necessary to enforce the provisions of the Radiation Control Act;

1830 (ii) enforce the orders by appropriate administrative and judicial proceedings; or

1831 (iii) institute judicial proceedings to secure compliance with this part;

1832 (c) (i) hold a hearing that is not an adjudicative proceeding; or

1833 (ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;

1834 (d) accept, receive, and administer grants or other funds or gifts from public and

1835 private agencies, including the federal government, for the purpose of carrying out any of the

1836 functions of the Radiation Control Act; or

1837 (e) order the director to impound radioactive material in accordance with Section

1838 [19-3-111](#).

1839 (2) (a) The board shall promote the planning and application of pollution prevention

1840 and radioactive waste minimization measures to prevent the unnecessary waste and depletion

1841 of natural resources; and

1842 (b) review the qualifications of, and issue certificates of approval to, individuals who:

1843 (i) survey mammography equipment; or

1844 (ii) oversee quality assurance practices at mammography facilities.

1845 (3) The board shall:

1846 (a) survey solid and hazardous waste generation and management practices within this

1847 state and, after public hearing and after providing opportunities for comment by local

1848 governmental entities, industry, and other interested persons, prepare and revise, as necessary, a

1849 waste management plan for the state;

- 1850 (b) order the director to:
- 1851 (i) issue orders necessary to effectuate the provisions of this part and rules made under  
1852 this part;
- 1853 (ii) enforce the orders by administrative and judicial proceedings; or
- 1854 (iii) initiate judicial proceedings to secure compliance with this part;
- 1855 (c) promote the planning and application of resource recovery systems to prevent the  
1856 unnecessary waste and depletion of natural resources;
- 1857 (d) meet the requirements of federal law related to solid and hazardous wastes to insure  
1858 that the solid and hazardous wastes program provided for in this part is qualified to assume  
1859 primacy from the federal government in control over solid and hazardous waste;
- 1860 (e) (i) require any facility, including those listed in Subsection (3)(e)(ii), to submit  
1861 plans, specifications, and other information required by the board to the director prior to  
1862 construction, modification, installation, or establishment of a facility to allow the director to  
1863 determine whether the proposed construction, modification, installation, or establishment of the  
1864 facility will be in accordance with rules made under this part;
- 1865 (ii) facilities referred to in Subsection (3)(e)(i) include any incinerator that is intended  
1866 for disposing of nonhazardous solid waste; ~~and~~
- 1867 (iii) a facility referred to in Subsection (3)(e)(i) does not include a commercial facility  
1868 that is solely for the purpose of recycling, reuse, or reprocessing the following waste:
- 1869 (A) fly ash waste;
- 1870 (B) bottom ash waste;
- 1871 (C) slag waste; or
- 1872 (D) flue gas emission control waste generated primarily from the combustion of coal or  
1873 other fossil fuels; and
- 1874 (iv) a facility referred to in Subsection (3)(e)(i) does not include a facility when the  
1875 following waste is generated and the disposal occurs at an on-site location owned and operated  
1876 by the generator of the waste:
- 1877 (A) waste from the extraction, beneficiation, and processing of ores and minerals listed

1878 in 40 C.F.R. 261.4(b)(7)(ii); or  
1879 (B) cement kiln dust;  
1880 (f) to ensure compliance with applicable statutes and regulations:  
1881 (i) review a settlement negotiated by the director in accordance with Subsection  
1882 19-6-107(3)(a) that requires a civil penalty of \$25,000 or more; and  
1883 (ii) approve or disapprove the settlement.  
1884 (4) The board may:  
1885 (a) (i) hold a hearing that is not an adjudicative proceeding; or  
1886 (ii) appoint hearing officers to conduct a hearing that is not an adjudicative proceeding;  
1887 or  
1888 (b) advise, consult, cooperate with, or provide technical assistance to other agencies of  
1889 the state or federal government, other states, interstate agencies, or affected groups, political  
1890 subdivisions, industries, or other persons in carrying out the purposes of this part.  
1891 (5) (a) The board shall establish a comprehensive statewide waste management plan.  
1892 (b) The plan shall:  
1893 (i) incorporate the solid waste management plans submitted by the counties;  
1894 (ii) provide an estimate of solid waste capacity needed in the state for the next 20  
1895 years;  
1896 (iii) assess the state's ability to minimize waste and recycle;  
1897 (iv) evaluate solid waste treatment, disposal, and storage options, as well as solid waste  
1898 needs and existing capacity;  
1899 (v) evaluate facility siting, design, and operation;  
1900 (vi) review funding alternatives for solid waste management; and  
1901 (vii) address other solid waste management concerns that the board finds appropriate  
1902 for the preservation of the public health and the environment.  
1903 (c) The board shall consider the economic viability of solid waste management  
1904 strategies prior to incorporating them into the plan and shall consider the needs of population  
1905 centers.

1906 (d) The board shall review and modify the comprehensive statewide solid waste  
1907 management plan no less frequently than every five years.

1908 (6) (a) The board shall determine the type of solid waste generated in the state and  
1909 tonnage of solid waste disposed of in the state in developing the comprehensive statewide solid  
1910 waste management plan.

1911 (b) The board shall review and modify the inventory no less frequently than once every  
1912 five years.

1913 (7) Subject to the limitations contained in Subsection 19-6-102(18)(b), the board shall  
1914 establish siting criteria for nonhazardous solid waste disposal facilities, including incinerators.

1915 (8) The board may not issue, amend, renew, modify, revoke, or terminate any of the  
1916 following that are subject to the authority granted to the director under Section 19-6-107:

1917 (a) a permit;

1918 (b) a license;

1919 (c) a registration;

1920 (d) a certification; or

1921 (e) another administrative authorization made by the director.

1922 (9) A board member may not speak or act for the board unless the board member is  
1923 authorized by a majority of a quorum of the board in a vote taken at a meeting of the board.

1924 Section 32. Section 19-6-715 is amended to read:

1925 **19-6-715. Recycling fee collection procedures.**

1926 (1) A lubricating oil vendor shall pay the fee collected under Section 19-6-714 to the  
1927 commission:

1928 (a) monthly on or before the last day of the month immediately following the last day  
1929 of the previous month if:

1930 (i) the lubricating oil vendor is required to file a sales and use tax return with the  
1931 commission monthly under Section 59-12-108; or

1932 (ii) the lubricating oil vendor is not required to file a sales and use tax return under  
1933 Title 59, Chapter 12, Sales and Use Tax Act; or

1934 (b) quarterly on or before the last day of the month immediately following the last day  
1935 of the previous quarter if the lubricating oil vendor is required to file a sales and use tax return  
1936 with the commission quarterly under Section [~~59-12-108~~] [59-12-107](#).

1937 (2) A lubricating oil vendor may retain a maximum of 2% of the recycling fee it  
1938 collects under Section [19-6-714](#) for the costs of collecting the fee.

1939 (3) The payment of the fee to the commission shall be accompanied by a form provided  
1940 by the commission.

1941 Section 33. Section **19-6-808** is amended to read:

1942 **19-6-808. Payment of recycling fee -- Administrative charge.**

1943 (1) A tire retailer shall pay the recycling fee to the commission:

1944 (a) monthly on or before the last day of the month immediately following the last day  
1945 of the previous month if:

1946 (i) the tire retailer is required to file a sales and use tax return with the commission  
1947 monthly under Section [59-12-108](#); or

1948 (ii) the tire retailer is not required to file a sales and use tax return under Title 59,  
1949 Chapter 12, Sales and Use Tax Act; or

1950 (b) quarterly on or before the last day of the month immediately following the last day  
1951 of the previous quarter if the tire retailer is required to file a sales and use tax return with the  
1952 commission quarterly under Section [~~59-12-108~~] [59-12-107](#).

1953 (2) The payment shall be accompanied by a form prescribed by the commission.

1954 (3) (a) The proceeds of the fee shall be transferred by the commission to the fund for  
1955 payment of partial reimbursement.

1956 (b) The commission shall retain and deposit an administrative charge in accordance  
1957 with Section [59-1-306](#) from the revenues the commission collects from a fee under Section  
1958 [19-6-805](#).

1959 (4) (a) The commission shall administer, collect, and enforce the fee authorized under  
1960 this part in accordance with the same procedures used in the administration, collection, and  
1961 enforcement of the state sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,

1962 and Title 59, Chapter 1, General Taxation Policies.

1963 (b) A tire retailer may retain 2-1/2% of the recycling fee collected under this part for  
1964 the cost of collecting the fee.

1965 (c) The exemptions provided in Section 59-12-104 do not apply to this part.

1966 (5) The fee imposed by this part is in addition to all other state, county, or municipal  
1967 fees and taxes imposed on the sale of new tires.

1968 Section 34. Section 20A-1-102 is amended to read:

1969 **20A-1-102. Definitions.**

1970 As used in this title:

1971 (1) "Active voter" means a registered voter who has not been classified as an inactive  
1972 voter by the county clerk.

1973 (2) "Automatic tabulating equipment" means apparatus that automatically examines  
1974 and counts votes recorded on paper ballots or ballot sheets and tabulates the results.

1975 (3) (a) "Ballot" means the storage medium, whether paper, mechanical, or electronic,  
1976 upon which a voter records the voter's votes.

1977 (b) "Ballot" includes ballot sheets, paper ballots, electronic ballots, and secrecy  
1978 envelopes.

1979 (4) "Ballot label" means the cards, papers, booklet, pages, or other materials that:

1980 (a) contain the names of offices and candidates and statements of ballot propositions to  
1981 be voted on; and

1982 (b) are used in conjunction with ballot sheets that do not display that information.

1983 (5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters  
1984 on the ballot for their approval or rejection including:

1985 (a) an opinion question specifically authorized by the Legislature;

1986 (b) a constitutional amendment;

1987 (c) an initiative;

1988 (d) a referendum;

1989 (e) a bond proposition;

- 1990 (f) a judicial retention question;
- 1991 (g) an incorporation of a city or town; or
- 1992 (h) any other ballot question specifically authorized by the Legislature.
- 1993 (6) "Ballot sheet":
- 1994 (a) means a ballot that:
- 1995 (i) consists of paper or a card where the voter's votes are marked or recorded; and
- 1996 (ii) can be counted using automatic tabulating equipment; and
- 1997 (b) includes punch card ballots and other ballots that are machine-countable.
- 1998 (7) "Bind," "binding," or "bound" means securing more than one piece of paper
- 1999 together with a staple or stitch in at least three places across the top of the paper in the blank
- 2000 space reserved for securing the paper.
- 2001 (8) "Board of canvassers" means the entities established by Sections [20A-4-301](#) and
- 2002 [20A-4-306](#) to canvass election returns.
- 2003 (9) "Bond election" means an election held for the purpose of approving or rejecting
- 2004 the proposed issuance of bonds by a government entity.
- 2005 (10) "Book voter registration form" means voter registration forms contained in a
- 2006 bound book that are used by election officers and registration agents to register persons to vote.
- 2007 (11) "Business reply mail envelope" means an envelope that may be mailed free of
- 2008 charge by the sender.
- 2009 (12) "By-mail voter registration form" means a voter registration form designed to be
- 2010 completed by the voter and mailed to the election officer.
- 2011 (13) "Canvass" means the review of election returns and the official declaration of
- 2012 election results by the board of canvassers.
- 2013 (14) "Canvassing judge" means a poll worker designated to assist in counting ballots at
- 2014 the canvass.
- 2015 (15) "Contracting election officer" means an election officer who enters into a contract
- 2016 or interlocal agreement with a provider election officer.
- 2017 (16) "Convention" means the political party convention at which party officers and



2018 delegates are selected.

2019 (17) "Counting center" means one or more locations selected by the election officer in  
2020 charge of the election for the automatic counting of ballots.

2021 (18) "Counting judge" means a poll worker designated to count the ballots during  
2022 election day.

2023 (19) "Counting room" means a suitable and convenient private place or room,  
2024 immediately adjoining the place where the election is being held, for use by the poll workers  
2025 and counting judges to count ballots during election day.

2026 (20) "County officers" means those county officers that are required by law to be  
2027 elected.

2028 (21) "Date of the election" or "election day" or "day of the election":

2029 (a) means the day that is specified in the calendar year as the day that the election  
2030 occurs; and

2031 (b) does not include:

2032 (i) deadlines established for absentee voting; or

2033 (ii) any early voting or early voting period as provided under Chapter 3, Part 6, Early  
2034 Voting.

2035 (22) "Elected official" means:

2036 (a) a person elected to an office under Section [20A-1-303](#) or Chapter ~~[†]~~ 4, Part 6,  
2037 ~~[Election Offenses – Generally]~~ Municipal Alternate Voting Methods Pilot Project;

2038 (b) a person who is considered to be elected to a municipal office in accordance with  
2039 Subsection [20A-1-206\(1\)\(c\)\(ii\)](#); or

2040 (c) a person who is considered to be elected to a local district office in accordance with  
2041 Subsection [20A-1-206\(3\)\(c\)\(ii\)](#).

2042 (23) "Election" means a regular general election, a municipal general election, a  
2043 statewide special election, a local special election, a regular primary election, a municipal  
2044 primary election, and a local district election.

2045 (24) "Election Assistance Commission" means the commission established by the Help

2046 America Vote Act of 2002, Pub. L. No. 107-252.

2047 (25) "Election cycle" means the period beginning on the first day persons are eligible to  
2048 file declarations of candidacy and ending when the canvass is completed.

2049 (26) "Election judge" means a poll worker that is assigned to:

2050 (a) preside over other poll workers at a polling place;

2051 (b) act as the presiding election judge; or

2052 (c) serve as a canvassing judge, counting judge, or receiving judge.

2053 (27) "Election officer" means:

2054 (a) the lieutenant governor, for all statewide ballots and elections;

2055 (b) the county clerk for:

2056 (i) a county ballot and election; and

2057 (ii) a ballot and election as a provider election officer as provided in Section

2058 [20A-5-400.1](#) or [20A-5-400.5](#);

2059 (c) the municipal clerk for:

2060 (i) a municipal ballot and election; and

2061 (ii) a ballot and election as a provider election officer as provided in Section

2062 [20A-5-400.1](#) or [20A-5-400.5](#);

2063 (d) the local district clerk or chief executive officer for:

2064 (i) a local district ballot and election; and

2065 (ii) a ballot and election as a provider election officer as provided in Section

2066 [20A-5-400.1](#) or [20A-5-400.5](#); or

2067 (e) the business administrator or superintendent of a school district for:

2068 (i) a school district ballot and election; and

2069 (ii) a ballot and election as a provider election officer as provided in Section

2070 [20A-5-400.1](#) or [20A-5-400.5](#).

2071 (28) "Election official" means any election officer, election judge, or poll worker.

2072 (29) "Election results" means:

2073 (a) for an election other than a bond election, the count of votes cast in the election and

2074 the election returns requested by the board of canvassers; or

2075 (b) for bond elections, the count of those votes cast for and against the bond  
2076 proposition plus any or all of the election returns that the board of canvassers may request.

2077 (30) "Election returns" includes the pollbook, the military and overseas absentee voter  
2078 registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all  
2079 counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition  
2080 form, and the total votes cast form.

2081 (31) "Electronic ballot" means a ballot that is recorded using a direct electronic voting  
2082 device or other voting device that records and stores ballot information by electronic means.

2083 (32) "Electronic signature" means an electronic sound, symbol, or process attached to  
2084 or logically associated with a record and executed or adopted by a person with the intent to sign  
2085 the record.

2086 (33) (a) "Electronic voting device" means a voting device that uses electronic ballots.

2087 (b) "Electronic voting device" includes a direct recording electronic voting device.

2088 (34) "Inactive voter" means a registered voter who is listed as inactive by a county  
2089 clerk under Subsection [20A-2-306\(4\)\(c\)\(i\)](#) or (ii).

2090 (35) "Judicial office" means the office filled by any judicial officer.

2091 (36) "Judicial officer" means any justice or judge of a court of record or any county  
2092 court judge.

2093 (37) "Local district" means a local government entity under Title 17B, Limited Purpose  
2094 Local Government Entities - Local Districts, and includes a special service district under Title  
2095 17D, Chapter 1, Special Service District Act.

2096 (38) "Local district officers" means those local district board members that are required  
2097 by law to be elected.

2098 (39) "Local election" means a regular county election, a regular municipal election, a  
2099 municipal primary election, a local special election, a local district election, and a bond  
2100 election.

2101 (40) "Local political subdivision" means a county, a municipality, a local district, or a

2102 local school district.

2103 (41) "Local special election" means a special election called by the governing body of a  
2104 local political subdivision in which all registered voters of the local political subdivision may  
2105 vote.

2106 (42) "Municipal executive" means:

2107 (a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

2108 (b) the mayor in the council-manager form of government defined in Subsection  
2109 10-3b-103(7); or

2110 (c) the chair of a metro township form of government defined in Section 10-3b-102.

2111 (43) "Municipal general election" means the election held in municipalities and, as  
2112 applicable, local districts on the first Tuesday after the first Monday in November of each  
2113 odd-numbered year for the purposes established in Section 20A-1-202.

2114 (44) "Municipal legislative body" means:

2115 (a) the council of the city or town in any form of municipal government; or

2116 (b) the council of a metro township.

2117 (45) "Municipal office" means an elective office in a municipality.

2118 (46) "Municipal officers" means those municipal officers that are required by law to be  
2119 elected.

2120 (47) "Municipal primary election" means an election held to nominate candidates for  
2121 municipal office.

2122 (48) "Municipality" means a city, town, or metro township.

2123 (49) "Official ballot" means the ballots distributed by the election officer to the poll  
2124 workers to be given to voters to record their votes.

2125 (50) "Official endorsement" means:

2126 (a) the information on the ballot that identifies:

2127 (i) the ballot as an official ballot;

2128 (ii) the date of the election; and

2129 (iii) (A) for a ballot prepared by an election officer other than a county clerk, the

2130 facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or  
2131 (B) for a ballot prepared by a county clerk, the words required by Subsection  
2132 20A-6-301(1)(b)(iii); and  
2133 (b) the information on the ballot stub that identifies:  
2134 (i) the poll worker's initials; and  
2135 (ii) the ballot number.  
2136 (51) "Official register" means the official record furnished to election officials by the  
2137 election officer that contains the information required by Section 20A-5-401.  
2138 (52) "Paper ballot" means a paper that contains:  
2139 (a) the names of offices and candidates and statements of ballot propositions to be  
2140 voted on; and  
2141 (b) spaces for the voter to record the voter's vote for each office and for or against each  
2142 ballot proposition.  
2143 (53) "Political party" means an organization of registered voters that has qualified to  
2144 participate in an election by meeting the requirements of Chapter 8, Political Party Formation  
2145 and Procedures.  
2146 (54) (a) "Poll worker" means a person assigned by an election official to assist with an  
2147 election, voting, or counting votes.  
2148 (b) "Poll worker" includes election judges.  
2149 (c) "Poll worker" does not include a watcher.  
2150 (55) "Pollbook" means a record of the names of voters in the order that they appear to  
2151 cast votes.  
2152 (56) "Polling place" means the building where voting is conducted.  
2153 (57) "Position" means a square, circle, rectangle, or other geometric shape on a ballot  
2154 in which the voter marks the voter's choice.  
2155 (58) "Presidential Primary Election" means the election established in Chapter 9, Part  
2156 8, Presidential Primary Election.  
2157 (59) "Primary convention" means the political party conventions held during the year

2158 of the regular general election.

2159 (60) "Protective counter" means a separate counter, which cannot be reset, that:

2160 (a) is built into a voting machine; and

2161 (b) records the total number of movements of the operating lever.

2162 (61) "Provider election officer" means an election officer who enters into a contract or  
2163 interlocal agreement with a contracting election officer to conduct an election for the  
2164 contracting election officer's local political subdivision in accordance with Section  
2165 [20A-5-400.1](#).

2166 (62) "Provisional ballot" means a ballot voted provisionally by a person:

2167 (a) whose name is not listed on the official register at the polling place;

2168 (b) whose legal right to vote is challenged as provided in this title; or

2169 (c) whose identity was not sufficiently established by a poll worker.

2170 (63) "Provisional ballot envelope" means an envelope printed in the form required by  
2171 Section [20A-6-105](#) that is used to identify provisional ballots and to provide information to  
2172 verify a person's legal right to vote.

2173 (64) "Qualify" or "qualified" means to take the oath of office and begin performing the  
2174 duties of the position for which the person was elected.

2175 (65) "Receiving judge" means the poll worker that checks the voter's name in the  
2176 official register, provides the voter with a ballot, and removes the ballot stub from the ballot  
2177 after the voter has voted.

2178 (66) "Registration form" means a book voter registration form and a by-mail voter  
2179 registration form.

2180 (67) "Regular ballot" means a ballot that is not a provisional ballot.

2181 (68) "Regular general election" means the election held throughout the state on the first  
2182 Tuesday after the first Monday in November of each even-numbered year for the purposes  
2183 established in Section [20A-1-201](#).

2184 (69) "Regular primary election" means the election, held on the date specified in  
2185 Section [20A-1-201.5](#), to nominate candidates of political parties and candidates for nonpartisan

2186 local school board positions to advance to the regular general election.

2187 (70) "Resident" means a person who resides within a specific voting precinct in Utah.

2188 (71) "Sample ballot" means a mock ballot similar in form to the official ballot printed  
2189 and distributed as provided in Section [20A-5-405](#).

2190 (72) "Scratch vote" means to mark or punch the straight party ticket and then mark or  
2191 punch the ballot for one or more candidates who are members of different political parties or  
2192 who are unaffiliated.

2193 (73) "Secrecy envelope" means the envelope given to a voter along with the ballot into  
2194 which the voter places the ballot after the voter has voted it in order to preserve the secrecy of  
2195 the voter's vote.

2196 (74) "Special election" means an election held as authorized by Section [20A-1-203](#).

2197 (75) "Spoiled ballot" means each ballot that:

2198 (a) is spoiled by the voter;

2199 (b) is unable to be voted because it was spoiled by the printer or a poll worker; or

2200 (c) lacks the official endorsement.

2201 (76) "Statewide special election" means a special election called by the governor or the  
2202 Legislature in which all registered voters in Utah may vote.

2203 (77) "Stub" means the detachable part of each ballot.

2204 (78) "Substitute ballots" means replacement ballots provided by an election officer to  
2205 the poll workers when the official ballots are lost or stolen.

2206 (79) "Ticket" means a list of:

2207 (a) political parties;

2208 (b) candidates for an office; or

2209 (c) ballot propositions.

2210 (80) "Transfer case" means the sealed box used to transport voted ballots to the  
2211 counting center.

2212 (81) "Vacancy" means the absence of a person to serve in any position created by  
2213 statute, whether that absence occurs because of death, disability, disqualification, resignation,

2214 or other cause.

2215 (82) "Valid voter identification" means:

2216 (a) a form of identification that bears the name and photograph of the voter which may

2217 include:

2218 (i) a currently valid Utah driver license;

2219 (ii) a currently valid identification card that is issued by:

2220 (A) the state; or

2221 (B) a branch, department, or agency of the United States;

2222 (iii) a currently valid Utah permit to carry a concealed weapon;

2223 (iv) a currently valid United States passport; or

2224 (v) a currently valid United States military identification card;

2225 (b) one of the following identification cards, whether or not the card includes a

2226 photograph of the voter:

2227 (i) a valid tribal identification card;

2228 (ii) a Bureau of Indian Affairs card; or

2229 (iii) a tribal treaty card; or

2230 (c) two forms of identification not listed under Subsection (82)(a) or (b) but that bear

2231 the name of the voter and provide evidence that the voter resides in the voting precinct, which

2232 may include:

2233 (i) a current utility bill or a legible copy thereof, dated within the 90 days before the

2234 election;

2235 (ii) a bank or other financial account statement, or a legible copy thereof;

2236 (iii) a certified birth certificate;

2237 (iv) a valid social security card;

2238 (v) a check issued by the state or the federal government or a legible copy thereof;

2239 (vi) a paycheck from the voter's employer, or a legible copy thereof;

2240 (vii) a currently valid Utah hunting or fishing license;

2241 (viii) certified naturalization documentation;



- 2242 (ix) a currently valid license issued by an authorized agency of the United States;
- 2243 (x) a certified copy of court records showing the voter's adoption or name change;
- 2244 (xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;
- 2245 (xii) a currently valid identification card issued by:
  - 2246 (A) a local government within the state;
  - 2247 (B) an employer for an employee; or
  - 2248 (C) a college, university, technical school, or professional school located within the
  - 2249 state; or
  - 2250 (xiii) a current Utah vehicle registration.
- 2251 (83) "Valid write-in candidate" means a candidate who has qualified as a write-in
- 2252 candidate by following the procedures and requirements of this title.
- 2253 (84) "Voter" means a person who:
  - 2254 (a) meets the requirements for voting in an election;
  - 2255 (b) meets the requirements of election registration;
  - 2256 (c) is registered to vote; and
  - 2257 (d) is listed in the official register book.
- 2258 (85) "Voter registration deadline" means the registration deadline provided in Section
- 2259 [20A-2-102.5](#).
- 2260 (86) "Voting area" means the area within six feet of the voting booths, voting
- 2261 machines, and ballot box.
- 2262 (87) "Voting booth" means:
  - 2263 (a) the space or compartment within a polling place that is provided for the preparation
  - 2264 of ballots, including the voting machine enclosure or curtain; or
  - 2265 (b) a voting device that is free standing.
- 2266 (88) "Voting device" means:
  - 2267 (a) an apparatus in which ballot sheets are used in connection with a punch device for
  - 2268 piercing the ballots by the voter;
  - 2269 (b) a device for marking the ballots with ink or another substance;

2270 (c) an electronic voting device or other device used to make selections and cast a ballot  
2271 electronically, or any component thereof;

2272 (d) an automated voting system under Section 20A-5-302; or

2273 (e) any other method for recording votes on ballots so that the ballot may be tabulated  
2274 by means of automatic tabulating equipment.

2275 (89) "Voting machine" means a machine designed for the sole purpose of recording  
2276 and tabulating votes cast by voters at an election.

2277 (90) "Voting precinct" means the smallest voting unit established as provided by law  
2278 within which qualified voters vote at one polling place.

2279 (91) "Watcher" means an individual who complies with the requirements described in  
2280 Section 20A-3-201 to become a watcher for an election.

2281 (92) "Write-in ballot" means a ballot containing any write-in votes.

2282 (93) "Write-in vote" means a vote cast for a person whose name is not printed on the  
2283 ballot according to the procedures established in this title.

2284 Section 35. Section 20A-3-302 is amended to read:

2285 **20A-3-302. Conducting election by absentee ballot.**

2286 (1) (a) Notwithstanding Section 17B-1-306, an election officer may administer an  
2287 election by absentee ballot under this section.

2288 (b) An election officer who administers an election by absentee ballot, except for an  
2289 election conducted under Section 20A-7-609.5, shall, before the following dates, notify the  
2290 lieutenant governor that the election will be administered by absentee ballot:

2291 (i) February 1 of an even-numbered year if the election is a regular general election; or

2292 (ii) May 1 of an odd-numbered year if the election is a municipal general election.

2293 (2) An election officer who administers an election by absentee ballot:

2294 (a) shall mail to each active voter within a voting precinct:

2295 (i) an absentee ballot;

2296 (ii) for an election administered by a county clerk, information regarding the location  
2297 and hours of operation of any election day voting center at which the voter may vote;

- 2298 (iii) a courtesy reply mail envelope;
- 2299 (iv) instructions for returning the ballot that include an express notice about any  
2300 relevant deadlines that the voter must meet in order for the voter's vote to be counted; and
- 2301 (v) for an election administered by an election officer other than a county clerk, if the  
2302 election officer does not operate a polling location or an election day voting center, a warning,  
2303 on a separate page of colored paper in bold face print, indicating that if the voter fails to follow  
2304 the instructions included with the absentee ballot, the voter will be unable to vote in that  
2305 election because there will be no polling place in the voting precinct on the day of the election;  
2306 and
- 2307 (b) may not mail an absentee ballot under this section to:
- 2308 (i) an inactive voter; or
- 2309 (ii) a voter whom the election officer is prohibited from sending an absentee ballot  
2310 under Subsection (8)(c)(ii).
- 2311 (3) A voter who votes by absentee ballot under this section is not required to apply for  
2312 an absentee ballot as required by this part.
- 2313 (4) An election officer who administers an election by absentee ballot shall:
- 2314 (a) (i) obtain, in person, the signatures of each voter within that voting precinct before  
2315 the election; or
- 2316 (ii) obtain the signature of each voter within the voting precinct from the county clerk;  
2317 and
- 2318 (b) maintain the signatures on file in the election officer's office.
- 2319 (5) Upon receipt of a returned absentee ballot, the election officer shall review and  
2320 process the ballot under Section [20A-3-308](#).
- 2321 (6) A county that administers an election by absentee ballot:
- 2322 (a) shall provide at least one election day voting center in accordance with Chapter 3,  
2323 Part 7, Election Day Voting Center, for every 5,000 active voters in the county who will not  
2324 receive an absentee ballot, but not fewer than one election day voting center;
- 2325 (b) shall ensure that each election day voting center operated by the county has at least

2326 one voting device that is accessible, in accordance with the Help America Vote Act of 2002,  
2327 Pub. L. No. 107-252, for individuals with disabilities;

2328 (c) may reduce the early voting period described in Section [~~20A-6-301~~] [20A-3-601](#), if:

2329 (i) the county clerk conducts early voting on at least four days;

2330 (ii) the early voting days are within the period beginning on the date that is 14 days  
2331 before the date of the election and ending on the day before the election; and

2332 (iii) the county clerk provides notice of the reduced early voting period in accordance  
2333 with Section [20A-3-604](#);

2334 (d) is not required to pay return postage for an absentee ballot; and

2335 (e) is subject to an audit conducted under Subsection (7).

2336 (7) (a) The lieutenant governor shall:

2337 (i) develop procedures for conducting an audit of affidavit signatures on ballots cast in  
2338 an election conducted under this section; and

2339 (ii) after each primary, general, or special election conducted under this section, select  
2340 a number of ballots, in varying jurisdictions, to audit in accordance with the procedures  
2341 developed under Subsection (7)(a)(i).

2342 (b) The lieutenant governor shall post the results of an audit conducted under this  
2343 Subsection (7) on the lieutenant governor's website.

2344 (8) (a) An individual in a jurisdiction that conducts an election by absentee ballot may  
2345 request that the election officer not send the individual a ballot by mail in the next and  
2346 subsequent elections by submitting a written request to the election officer.

2347 (b) An individual shall submit the request described in Subsection (8)(a) to the election  
2348 officer before 5 p.m. no later than 60 days before an election if the individual does not wish to  
2349 receive an absentee ballot in that election.

2350 (c) An election officer who receives a request from an individual under Subsection  
2351 (8)(a):

2352 (i) shall remove the individual's name from the list of voters who will receive an  
2353 absentee ballot; and

- 2354 (ii) may not send the individual an absentee ballot for:
- 2355 (A) the next election, if the individual submits the request described in Subsection
- 2356 (8)(a) before the deadline described in Subsection (8)(b); or
- 2357 (B) an election after the election described in Subsection (8)(c)(ii)(A).
- 2358 (d) An individual who submits a request under Subsection (8)(a) may resume the
- 2359 individual's receipt of an absentee ballot in an election conducted under this section by filing an
- 2360 absentee ballot request under Section [20A-3-304](#).

2361 Section 36. Section **20A-7-402** is amended to read:

2362 **20A-7-402. Local voter information pamphlet -- Contents -- Limitations --**  
2363 **Preparation -- Statement on front cover.**

2364 (1) The county or municipality that is subject to a ballot proposition shall prepare a  
2365 local voter information pamphlet that complies with the requirements of this part.

2366 (2) (a) Within the time requirements described in Subsection (2)(c)(i), a municipality  
2367 that is subject to a special local ballot proposition shall provide a notice that complies with the  
2368 requirements of Subsection (2)(c)(ii) to the municipality's residents by:

2369 (i) if the municipality regularly mails a newsletter, utility bill, or other material to the  
2370 municipality's residents, including the notice with a newsletter, utility bill, or other material;

2371 (ii) posting the notice, until after the deadline described in Subsection (2)(d) has  
2372 passed, on:

2373 (A) the Utah Public Notice Website created in Section [63F-1-701](#); and

2374 (B) the home page of the municipality's website, if the municipality has a website; and

2375 (iii) sending the notice electronically to each individual in the municipality for whom  
2376 the municipality has an email address.

2377 (b) A county that is subject to a special local ballot proposition shall:

2378 (i) send an electronic notice that complies with the requirements of Subsection  
2379 (2)(c)(ii) to each individual in the county for whom the county has an email address; or

2380 (ii) until after the deadline described in Subsection (2)(d) has passed, post a notice that  
2381 complies with the requirements of Subsection (2)(c)(ii) on:

- 2382 (A) the Utah Public Notice Website created in Section 63F-1-701; and  
2383 (B) the home page of the county's website.  
2384 (c) A municipality or county that mails, sends, or posts a notice under Subsection (2)(a)  
2385 or (b) shall:  
2386 (i) mail, send, or post the notice:  
2387 (A) not less than 90 days before the date of the election at which a special local ballot  
2388 proposition will be voted upon; or  
2389 (B) if the requirements of Subsection (2)(c)(i)(A) cannot be met, as soon as practicable  
2390 after the special local ballot proposition is approved to be voted upon in an election; and  
2391 (ii) ensure that the notice contains:  
2392 (A) the ballot title for the special local ballot proposition;  
2393 (B) instructions on how to file a request under Subsection (2)(d); and  
2394 (C) the deadline described in Subsection (2)(d).  
2395 (d) To prepare a written argument for or against a special local ballot proposition, an  
2396 eligible voter shall file a request with the election officer before 5 p.m. no later than 55 days  
2397 before the day of the election at which the special local ballot proposition is to be voted on.  
2398 (e) If more than one eligible voter requests the opportunity to prepare a written  
2399 argument for or against a special local ballot proposition, the election officer shall make the  
2400 final designation in accordance with the following order of priority:  
2401 (i) sponsors have priority in preparing an argument regarding a special local ballot  
2402 proposition; and  
2403 (ii) members of the local legislative body have priority over others if a majority of the  
2404 local legislative body supports the written argument.  
2405 (f) The election officer shall grant a request described in Subsection (2)(d) or (e) no  
2406 later than 67 days before the day of the election at which the ballot proposition is to be voted  
2407 on.  
2408 (g) (i) A sponsor of a special local ballot proposition may prepare a written argument in  
2409 favor of the special local ballot proposition.

2410 (ii) Subject to Subsection (2)(e), an eligible voter opposed to the special local ballot  
2411 proposition who submits a request under Subsection (2)(d) may prepare a written argument  
2412 against the special local ballot proposition.

2413 (h) An eligible voter who submits a written argument under this section in relation to a  
2414 special local ballot proposition shall:

2415 (i) ensure that the written argument does not exceed 500 words in length, not counting  
2416 the information described in Subsection (2)(h)(ii) or (iv);

2417 (ii) list, at the end of the argument, at least one, but no more than five, names as  
2418 sponsors;

2419 (iii) submit the written argument to the election officer before 5 p.m. no later than 60  
2420 days before the election day on which the ballot proposition will be submitted to the voters;

2421 (iv) list in the argument, immediately after the eligible voter's name, the eligible voter's  
2422 residential address; and

2423 (v) submit with the written argument the eligible voter's name, residential address,  
2424 postal address, email address if available, and phone number.

2425 (i) An election officer shall refuse to accept and publish an argument submitted after  
2426 the deadline described in Subsection (2)(h)(iii).

2427 (3) (a) An election officer who timely receives the written arguments in favor of and  
2428 against a special local ballot proposition shall, within one business day after the day on which  
2429 the election office receives both written arguments, send, via mail or email:

2430 (i) a copy of the written argument in favor of the special local ballot proposition to the  
2431 eligible voter who submitted the written argument against the special local ballot proposition;  
2432 and

2433 (ii) a copy of the written argument against the special local ballot proposition to the  
2434 eligible voter who submitted the written argument in favor of the special local ballot  
2435 proposition.

2436 (b) The eligible voter who submitted a timely written argument in favor of the special  
2437 local ballot proposition:

2438 (i) may submit to the election officer a written rebuttal argument of the written  
2439 argument against the special local ballot proposition;

2440 (ii) shall ensure that the written rebuttal argument does not exceed 250 words in length,  
2441 not counting the information described in Subsection [~~(3)~~] (2)(h)(ii) or (iv); and

2442 (iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days  
2443 before the election day on which the special local ballot proposition will be submitted to the  
2444 voters.

2445 (c) The eligible voter who submitted a timely written argument against the special local  
2446 ballot proposition:

2447 (i) may submit to the election officer a written rebuttal argument of the written  
2448 argument in favor of the special local ballot proposition;

2449 (ii) shall ensure that the written rebuttal argument does not exceed 250 words in length,  
2450 not counting the information described in Subsection [~~(3)~~] (2)(h)(ii) or (iv); and

2451 (iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days  
2452 before the election day on which the special local ballot proposition will be submitted to the  
2453 voters.

2454 (d) An election officer shall refuse to accept and publish a written rebuttal argument in  
2455 relation to a special local ballot proposition that is submitted after the deadline described in  
2456 Subsection (3)(b)(iii) or (3)(c)(iii).

2457 (4) (a) Except as provided in Subsection (4)(b), in relation to a special local ballot  
2458 proposition:

2459 (i) an eligible voter may not modify a written argument or a written rebuttal argument  
2460 after the eligible voter submits the written argument or written rebuttal argument to the election  
2461 officer; and

2462 (ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not  
2463 modify a written argument or a written rebuttal argument.

2464 (b) The election officer, and the eligible voter who submits a written argument or  
2465 written rebuttal argument in relation to a special local ballot proposition, may jointly agree to



2466 modify a written argument or written rebuttal argument in order to:

2467 (i) correct factual, grammatical, or spelling errors; and

2468 (ii) reduce the number of words to come into compliance with the requirements of this  
2469 section.

2470 (c) An election officer shall refuse to accept and publish a written argument or written  
2471 rebuttal argument in relation to a special local ballot proposition if the eligible voter who  
2472 submits the written argument or written rebuttal argument fails to negotiate, in good faith, to  
2473 modify the written argument or written rebuttal argument in accordance with Subsection (4)(b).

2474 (5) In relation to a special local ballot proposition, an election officer may designate  
2475 another eligible voter to take the place of an eligible voter described in this section if the  
2476 original eligible voter is, due to injury, illness, death, or another circumstance, unable to  
2477 continue to fulfill the duties of an eligible voter described in this section.

2478 (6) Sponsors whose written argument in favor of a standard local ballot proposition is  
2479 included in a proposition information pamphlet under Section [20A-7-401.5](#):

2480 (a) may, if a written argument against the standard local ballot proposition is included  
2481 in the proposition information pamphlet, submit a written rebuttal argument to the election  
2482 officer;

2483 (b) shall ensure that the written rebuttal argument does not exceed 250 words in length;  
2484 and

2485 (c) shall submit the written rebuttal argument no later than 45 days before the election  
2486 day on which the standard local ballot proposition will be submitted to the voters.

2487 (7) (a) A county or municipality that submitted a written argument against a standard  
2488 local ballot proposition that is included in a proposition information pamphlet under Section  
2489 [20A-7-401.5](#):

2490 (i) may, if a written argument in favor of the standard local ballot proposition is  
2491 included in the proposition information pamphlet, submit a written rebuttal argument to the  
2492 election officer;

2493 (ii) shall ensure that the written rebuttal argument does not exceed 250 words in length;

2494 and

2495 (iii) shall submit the written rebuttal argument no later than 45 days before the election  
2496 day on which the ballot proposition will be submitted to the voters.

2497 (b) If a county or municipality submits more than one written rebuttal argument under  
2498 Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments,  
2499 giving preference to a written rebuttal argument submitted by a member of a local legislative  
2500 body.

2501 (8) (a) An election officer shall refuse to accept and publish a written rebuttal argument  
2502 that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

2503 (b) Before an election officer publishes a local voter information pamphlet under this  
2504 section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government  
2505 Records Access and Management Act.

2506 (c) An election officer who receives a written rebuttal argument described in this  
2507 section may not, before publishing the local voter information pamphlet described in this  
2508 section, disclose the written rebuttal argument, or any information contained in the written  
2509 rebuttal argument, to any person who may in any way be involved in preparing an opposing  
2510 rebuttal argument.

2511 (9) (a) Except as provided in Subsection (9)(b), a person may not modify a written  
2512 rebuttal argument after the written rebuttal argument is submitted to the election officer.

2513 (b) The election officer, and the person who submits a written rebuttal argument, may  
2514 jointly agree to modify a written rebuttal argument in order to:

2515 (i) correct factual, grammatical, or spelling errors; or

2516 (ii) reduce the number of words to come into compliance with the requirements of this  
2517 section.

2518 (c) An election officer shall refuse to accept and publish a written rebuttal argument if  
2519 the person who submits the written rebuttal argument:

2520 (i) fails to negotiate, in good faith, to modify the written rebuttal argument in  
2521 accordance with Subsection (9)(b); or

2522 (ii) does not timely submit the written rebuttal argument to the election officer.

2523 (d) An election officer shall make a good faith effort to negotiate a modification  
2524 described in Subsection (9)(b) in an expedited manner.

2525 (10) An election officer may designate another person to take the place of a person who  
2526 submits a written rebuttal argument in relation to a standard local ballot proposition if the  
2527 person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the  
2528 person's duties.

2529 (11) (a) The local voter information pamphlet shall include a copy of the initial fiscal  
2530 impact estimate and the legal impact statement prepared for each initiative under Section  
2531 [20A-7-502.5](#).

2532 (b) If the initiative proposes a tax increase, the local voter information pamphlet shall  
2533 include the following statement in bold type:

2534 "This initiative seeks to increase the current (insert name of tax) rate by (insert the tax  
2535 percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent  
2536 increase in the current tax rate."

2537 (12) (a) In preparing the local voter information pamphlet, the election officer shall:

2538 (i) ensure that the written arguments are printed on the same sheet of paper upon which  
2539 the ballot proposition is also printed;

2540 (ii) ensure that the following statement is printed on the front cover or the heading of  
2541 the first page of the printed written arguments:

2542 "The arguments for or against a ballot proposition are the opinions of the authors.";

2543 (iii) pay for the printing and binding of the local voter information pamphlet; and

2544 (iv) not less than 15 days before, but not more than 45 days before, the election at  
2545 which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered  
2546 voter entitled to vote on the ballot proposition:

2547 (A) a voter information pamphlet; or

2548 (B) the notice described in Subsection (12)(c).

2549 (b) (i) If the language of the ballot proposition exceeds 500 words in length, the

2550 election officer may summarize the ballot proposition in 500 words or less.

2551 (ii) The summary shall state where a complete copy of the ballot proposition is  
2552 available for public review.

2553 (c) (i) The election officer may distribute a notice printed on a postage prepaid,  
2554 preaddressed return form that a person may use to request delivery of a voter information  
2555 pamphlet by mail.

2556 (ii) The notice described in Subsection (12)(c)(i) shall include:

2557 (A) the address of the Statewide Electronic Voter Information Website authorized by  
2558 Section [20A-7-801](#); and

2559 (B) the phone number a voter may call to request delivery of a voter information  
2560 pamphlet by mail or carrier.

2561 Section 37. Section **26-18-416** is amended to read:

2562 **26-18-416. Primary Care Network enhancement waiver program.**

2563 (1) As used in this section:

2564 (a) "Enhancement waiver program" means the Primary Care Network enhancement  
2565 waiver program described in this section.

2566 (b) "Federal poverty level" means the poverty guidelines established by the secretary of  
2567 the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).

2568 (c) "Health coverage improvement program" means the same as that term is defined in  
2569 Section [26-18-411](#).

2570 (d) "Income eligibility ceiling" means the percentage of federal poverty level:

2571 (i) established by the Legislature in an appropriations act adopted pursuant to Title 63J,  
2572 Chapter 1, Budgetary Procedures Act; and

2573 (ii) under which an individual may qualify for coverage in the enhancement waiver  
2574 program in accordance with this section.

2575 (e) "Optional population" means the optional expansion population under PPACA if  
2576 the expansion provides coverage for individuals at or above 95% of the federal poverty level.

2577 (f) "Primary Care Network" means the state Primary Care Network program created by

2578 the Medicaid primary care network demonstration waiver obtained under Section 26-18-3.

2579 (2) The department shall continue to implement the Primary Care Network program for  
2580 qualified individuals under the Primary Care Network program.

2581 (3) (a) The division shall apply for a Medicaid waiver or a state plan amendment with  
2582 CMS to implement, within the state Medicaid program, the enhancement waiver program  
2583 described in this section within six months after the day on which:

2584 (i) the division receives a notice from CMS that the waiver for the Medicaid waiver  
2585 expansion submitted under Section 26-18-415, Medicaid waiver expansion, will not be  
2586 approved; or

2587 (ii) the division withdraws the waiver for the Medicaid waiver expansion submitted  
2588 under Section 26-18-415, Medicaid waiver expansion.

2589 (b) The division may not apply for a waiver under Subsection (3)(a) while a waiver  
2590 request under Section 26-18-415, Medicaid waiver expansion, is pending with CMS.

2591 (4) An individual who is eligible for the enhancement waiver program may receive the  
2592 following benefits under the enhancement waiver program:

2593 (a) the benefits offered under the Primary Care Network program;

2594 (b) diagnostic testing and procedures;

2595 (c) medical specialty care;

2596 (d) inpatient hospital services;

2597 (e) outpatient hospital services;

2598 (f) outpatient behavioral health care, including outpatient substance abuse care; and

2599 (g) for an individual who qualifies for the health coverage improvement program, as  
2600 approved by CMS, temporary residential treatment for substance abuse in a short term,  
2601 non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation  
2602 services that are medically necessary and in accordance with an individualized treatment plan.

2603 (5) An individual is eligible for the enhancement waiver program if, at the time of  
2604 enrollment:

2605 (a) the individual is qualified to enroll in the Primary Care Network or the health

2606 coverage improvement program;

2607 (b) the individual's annual income is below the income eligibility ceiling established by  
2608 the Legislature under Subsection (1)(d); and

2609 (c) the individual meets the eligibility criteria established by the department under  
2610 Subsection (6).

2611 (6) (a) Based on available funding and approval from CMS [~~and subject to Subsection~~  
2612 ~~(6)(d)~~], the department shall determine the criteria for an individual to qualify for the  
2613 enhancement waiver program, based on the following priority:

2614 (i) adults in the expansion population, as defined in Section 26-18-411, who qualify for  
2615 the health coverage improvement program;

2616 (ii) adults with dependent children who qualify for the health coverage improvement  
2617 program under Subsection 26-18-411(3);

2618 (iii) adults with dependent children who do not qualify for the health coverage  
2619 improvement program; and

2620 (iv) if funding is available, adults without dependent children.

2621 (b) The number of individuals enrolled in the enhancement waiver program may not  
2622 exceed 105% of the number of individuals who were enrolled in the Primary Care Network on  
2623 December 31, 2017.

2624 (c) The department may only use appropriations from the Medicaid Expansion Fund  
2625 created in Section 26-36b-208 to fund the state portion of the enhancement waiver program.

2626 (7) The department may request a modification of the income eligibility ceiling and the  
2627 eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the  
2628 enhancement waiver program, projected enrollment in the enhancement waiver program, costs  
2629 to the state, and the state budget.

2630 (8) The department may implement the enhancement waiver program by contracting  
2631 with Medicaid accountable care organizations to administer the enhancement waiver program.

2632 (9) In accordance with Subsections 26-18-411(11) and (12), the department may use  
2633 funds that have been appropriated for the health coverage improvement program to implement

2634 the enhancement waiver program.

2635 (10) If the department expands the state Medicaid program to the optional population,  
2636 the department:

2637 (a) except as provided in Subsection (11), may not accept any new enrollees into the  
2638 enhancement waiver program after the day on which the expansion to the optional population  
2639 is effective;

2640 (b) shall suspend the enhancement waiver program within one year after the day on  
2641 which the expansion to the optional population is effective; and

2642 (c) shall work with CMS to maintain the waiver for the enhancement waiver program  
2643 submitted under Subsection (3) while the enhancement waiver program is suspended under  
2644 Subsection (10)(b).

2645 (11) If, after the expansion to the optional population described in Subsection (10)  
2646 takes effect, the expansion to the optional population is repealed by either the state or the  
2647 federal government, the department shall reinstate the enhancement waiver program and  
2648 continue to accept new enrollees into the enhancement waiver program in accordance with the  
2649 provisions of this section.

2650 Section 38. Section **26-19-302** is amended to read:

2651 **26-19-302. Insurance policies not to deny or reduce benefits of individuals eligible**  
2652 **for state medical assistance -- Exemptions.**

2653 (1) A policy of accident or sickness insurance may not contain any provision denying  
2654 or reducing benefits because services are rendered to an insured or dependent who is eligible  
2655 for or receiving medical assistance from the state.

2656 (2) An association, corporation, or organization may not deliver, issue for delivery, or  
2657 renew any subscriber's contract which contains any provisions denying or reducing benefits  
2658 because services are rendered to a subscriber or dependent who is eligible for or receiving  
2659 medical assistance from the state.

2660 (3) An association, corporation, business, or organization authorized to do business in  
2661 this state and which provides or pays for any health care benefits may not deny or reduce

2662 benefits because services are rendered to a beneficiary who is eligible for or receiving medical  
2663 assistance from the state.

2664 (4) Notwithstanding Subsection (1), (2), or (3), the Utah State Public [Employees]  
2665 Employees' Health Program, administered by the Utah State Retirement Board, is not required  
2666 to reimburse any agency of state government for custodial care which the agency provides,  
2667 through its staff or facilities, to members of the Utah State Public [Employees] Employees'  
2668 Health Program.

2669 Section 39. Section **26-61a-113** is amended to read:

2670 **26-61a-113. No effect on use of hemp extract -- Cannabidiol -- Approved drugs.**

2671 (1) Nothing in this chapter prohibits an individual[~~:(a) with a valid hemp extract~~  
2672 ~~registration card that the department issues under Section 26-56-103 from possessing,~~  
2673 ~~administering, or using hemp extract in accordance with Section 58-37-4.3; or (b)] from~~  
2674 purchasing, selling, possessing, or using a cannabidiol product in accordance with Section  
2675 ~~4-41-402.~~

2676 (2) Nothing in this chapter restricts or otherwise affects the prescription, distribution,  
2677 or dispensing of a product that the United States Food and Drug Administration has approved.

2678 Section 40. Section **26-61a-301** is amended to read:

2679 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

2680 (1) A person may not operate as a medical cannabis pharmacy without a license that  
2681 the department issues under this part.

2682 (2) (a) (i) Subject to Subsections (4) and (5) and to Section ~~26-61a-305~~, the department  
2683 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,  
2684 Chapter 6a, Utah Procurement Code.

2685 (ii) The department may not issue a license to operate a medical cannabis pharmacy to  
2686 an applicant who is not eligible for a license under this section.

2687 (b) An applicant is eligible for a license under this section if the applicant submits to  
2688 the department:

2689 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will



2690 operate the medical cannabis pharmacy;

2691 (ii) the name and address of an individual who:

2692 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis

2693 pharmacy; or

2694 (B) has the power to direct or cause the management or control of a proposed cannabis

2695 production establishment;

2696 (iii) a statement that the applicant will obtain and maintain a performance bond that a

2697 surety authorized to transact surety business in the state issues in an amount of at least

2698 \$125,000 for each application that the applicant submits to the department;

2699 (iv) an operating plan that:

2700 (A) complies with Section 26-61a-304;

2701 (B) includes operating procedures to comply with the operating requirements for a

2702 medical cannabis pharmacy described in this chapter and with a relevant municipal or county

2703 law that is consistent with Section 26-61a-507; and

2704 (C) the department approves;

2705 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the

2706 department sets in accordance with Section 63J-1-504; and

2707 (vi) a description of any investigation or adverse action taken by any licensing

2708 jurisdiction, government agency, law enforcement agency, or court in any state for any

2709 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations

2710 or businesses.

2711 (c) (i) A person may not locate a medical cannabis pharmacy:

2712 (A) within 200 feet of a community location; or

2713 (B) in or within 600 feet of a district that the relevant municipality or county has zoned

2714 as primarily residential.

2715 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured

2716 from the nearest entrance to the medical cannabis pharmacy establishment by following the

2717 shortest route of ordinary pedestrian travel to the property boundary of the community location

2718 or residential area.

2719 (iii) The department may grant a waiver to reduce the proximity requirements in  
2720 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible  
2721 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

2722 (iv) An applicant for a license under this section shall provide evidence of compliance  
2723 with the proximity requirements described in Subsection (2)(c)(i).

2724 (d) The department may not issue a license to an eligible applicant that the department  
2725 has selected to receive a license until the selected eligible applicant obtains the performance  
2726 bond described in Subsection (2)(b)(iii).

2727 (e) If the department receives more than one application for a medical cannabis  
2728 pharmacy within the same city or town, the department shall consult with the local land use  
2729 authority before approving any of the applications pertaining to that city or town.

2730 (3) If the department selects an applicant for a medical cannabis pharmacy license  
2731 under this section, the department shall:

2732 (a) charge the applicant an initial license fee in an amount that, subject to Subsection  
2733 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); and

2734 (b) notify the Department of Public Safety of the license approval and the names of  
2735 each individual described in Subsection (2)(b)(ii).

2736 (4) The department may not issue a license to operate a medical cannabis pharmacy to  
2737 an applicant if an individual described in Subsection (2)(b)(ii):

2738 (a) has been convicted under state or federal law of:

2739 (i) a felony; or

2740 (ii) after December 3, 2018, a misdemeanor for drug distribution;

2741 (b) is younger than 21 years old; or

2742 (c) after [~~the effective date of this bill~~] September 23, 2019, until January 1, 2023, is  
2743 actively serving as a legislator.

2744 (5) If an applicant for a medical cannabis pharmacy license under this section holds a  
2745 license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a,

2746 Cannabis Production Establishments, the department:

2747 (a) shall consult with the Department of Agriculture and Food regarding the applicant;  
2748 and

2749 (b) may not give preference to the applicant based on the applicant's status as a holder  
2750 of a license described in this Subsection (5).

2751 (6) The department may revoke a license under this part if:

2752 (a) the medical cannabis pharmacy does not begin operations within one year after the  
2753 day on which the department issues the initial license;

2754 (b) the medical cannabis pharmacy makes the same violation of this chapter three  
2755 times;

2756 (c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is  
2757 active, under state or federal law of:

2758 (i) a felony; or

2759 (ii) after December 3, 2018, a misdemeanor for drug distribution; or

2760 (d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at  
2761 the time of application, or fails to supplement the information described in Subsection  
2762 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the  
2763 application.

2764 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,  
2765 if the municipality or county where the licensed medical cannabis pharmacy will be located  
2766 requires a local land use permit, shall submit to the department a copy of the licensee's  
2767 approved application for the land use permit within 120 days after the day on which the  
2768 department issues the license.

2769 (b) If a licensee fails to submit to the department a copy the licensee's approved land  
2770 use permit application in accordance with Subsection (7)(a), the department may revoke the  
2771 licensee's license.

2772 (8) The department shall deposit the proceeds of a fee imposed by this section in the  
2773 Qualified Patient Enterprise Fund.

2774 (9) The department shall begin accepting applications under this part on or before  
2775 March 1, 2020.

2776 (10) (a) The department's authority to issue a license under this section is plenary and is  
2777 not subject to review.

2778 (b) Notwithstanding Subsection (2), the decision of the department to award a license  
2779 to an applicant is not subject to:

2780 (i) Title 63G, Chapter 6a, Part 16, Protests; or

2781 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2782 Section 41. Section **26-61a-602** is amended to read:

2783 **26-61a-602. State central patient portal medical provider.**

2784 (1) In relation to the state central patient portal:

2785 (a) the department may only employ, as a state central patient portal medical provider:

2786 (i) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

2787 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title  
2788 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2789 (b) if the department employs a state central patient portal medical provider, the  
2790 department shall ensure that a state central patient portal medical provider is available during  
2791 normal business hours.

2792 (2) A state central patient portal medical provider may:

2793 (a) provide consultations to medical cannabis cardholders and qualified medical  
2794 providers; and

2795 (b) determine dosing parameters in accordance with Subsection [26-61a-502\(5\)](#).

2796 Section 42. Section **26-61a-604** is amended to read:

2797 **26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis**  
2798 **couriers -- License.**

2799 (1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2800 Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home  
2801 delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the

2802 state central patient portal facilitates, including rules regarding the safe and controlled delivery  
2803 of medical cannabis shipments.

2804 (2) A person may not operate as a medical cannabis courier without a license that the  
2805 department issues under this section.

2806 (3) (a) Subject to Subsections (5) and (6), the department shall issue a license to  
2807 operate as a medical cannabis courier to an applicant who is eligible for a license under this  
2808 section.

2809 (b) An applicant is eligible for a license under this section if the applicant submits to  
2810 the department:

2811 (i) the name and address of an individual who:

2812 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis  
2813 pharmacy; or

2814 (B) has the power to direct or cause the management or control of a proposed cannabis  
2815 production establishment;

2816 (ii) an operating plan that includes operating procedures to comply with the operating  
2817 requirements for a medical cannabis courier described in this chapter; and

2818 (iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the  
2819 department sets in accordance with Section 63J-1-504.

2820 (4) If the department determines that an applicant is eligible for a license under this  
2821 section, the department shall:

2822 (a) charge the applicant an initial license fee in an amount that, subject to Subsection  
2823 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

2824 (b) notify the Department of Public Safety of the license approval and the names of  
2825 each individual described in Subsection (3)(b)(ii).

2826 (5) The department may not issue a license to operate as a medical cannabis courier to  
2827 an applicant if an individual described in Subsection (3)(b)(ii):

2828 (a) has been convicted under state or federal law of:

2829 (i) a felony; or

- 2830 (ii) after [~~the effective date of this bill~~] September 23, 2019, a misdemeanor for drug  
2831 distribution; or
- 2832 (b) is younger than 21 years old.
- 2833 (6) The department may revoke a license under this part if:
- 2834 (a) the medical cannabis courier does not begin operations within one year after the day  
2835 on which the department issues the initial license;
- 2836 (b) the medical cannabis courier makes the same violation of this chapter three times;  
2837 or
- 2838 (c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is  
2839 active, under state or federal law of:
- 2840 (i) a felony; or
- 2841 (ii) after [~~the effective date of this bill~~] September 23, 2019, a misdemeanor for drug  
2842 distribution.
- 2843 (7) The department shall deposit the proceeds of a fee imposed by this section in the  
2844 Qualified Patient Enterprise Fund.
- 2845 (8) The department shall begin accepting applications under this section on or before  
2846 July 1, 2020.
- 2847 (9) The department's authority to issue a license under this section is plenary and is not  
2848 subject to review.
- 2849 (10) Each applicant for a license as a medical cannabis courier shall submit, at the time  
2850 of application, from each individual who has a financial or voting interest of 2% or greater in  
2851 the applicant or who has the power to direct or cause the management or control of the  
2852 applicant:
- 2853 (a) a fingerprint card in a form acceptable to the Department of Public Safety;
- 2854 (b) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) acknowledging the  
2855 registration of the individual's fingerprints in the Federal Bureau of Investigation Next  
2856 Generation Identification System's Rap Back Service; and
- 2857 (c) consent to a fingerprint background check by:

- 2858 (i) the Bureau of Criminal Identification; and  
2859 (ii) the Federal Bureau of Investigation.
- 2860 (11) The Bureau of Criminal Identification shall:
- 2861 (a) check the fingerprints the applicant submits under Subsection (10) against the  
2862 applicable state, regional, and national criminal records databases, including the Federal  
2863 Bureau of Investigation Next Generation Identification System;
- 2864 (b) report the results of the background check to the department;
- 2865 (c) maintain a separate file of fingerprints that applicants submit under Subsection (10)  
2866 for search by future submissions to the local and regional criminal records databases, including  
2867 latent prints;
- 2868 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
2869 Generation Identification System's Rap Back Service for search by future submissions to  
2870 national criminal records databases, including the Next Generation Identification System and  
2871 latent prints; and
- 2872 (e) establish a privacy risk mitigation strategy to ensure that the department only  
2873 receives notifications for an individual with whom the department maintains an authorizing  
2874 relationship.
- 2875 (12) The department shall:
- 2876 (a) assess an individual who submits fingerprints under Subsection (10) a fee in an  
2877 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the  
2878 Bureau of Criminal Identification or another authorized agency provides under this section; and
- 2879 (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal  
2880 Identification.
- 2881 (13) The department shall renew a license under this section every year if, at the time  
2882 of renewal:
- 2883 (a) the licensee meets the requirements of this section; and
- 2884 (b) the licensee pays the department a license renewal fee in an amount that, subject to  
2885 Subsection [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2886 (14) A person applying for a medical cannabis courier license shall submit to the  
2887 department a proposed operating plan that complies with this section and that includes:

2888 (a) a description of the physical characteristics of any proposed facilities, including a  
2889 floor plan and an architectural elevation, and delivery vehicles;

2890 (b) a description of the credentials and experience of each officer, director, or owner of  
2891 the proposed medical cannabis courier;

2892 (c) the medical cannabis courier's employee training standards;

2893 (d) a security plan; and

2894 (e) storage and delivery protocols, both short and long term, to ensure that medical  
2895 cannabis shipments are stored and delivered in a manner that is sanitary and preserves the  
2896 integrity of the cannabis.

2897 Section 43. Section **26-61a-702** is amended to read:

2898 **26-61a-702. Enforcement -- Fine -- Citation.**

2899 (1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter  
2900 or an applicable administrative rule:

2901 (i) revoke the medical cannabis pharmacy license;

2902 (ii) refuse to renew the medical cannabis pharmacy license; or

2903 (iii) assess the medical cannabis pharmacy an administrative penalty.

2904 (b) The department may, for a medical cannabis pharmacy agent's or medical cannabis  
2905 courier agent's violation of this chapter:

2906 (i) revoke the medical cannabis pharmacy agent or medical cannabis courier agent  
2907 registration card;

2908 (ii) refuse to renew the medical cannabis pharmacy agent or medical cannabis courier  
2909 agent registration card; or

2910 (iii) assess the medical cannabis pharmacy agent or medical cannabis courier agent an  
2911 administrative penalty.

2912 (2) The department shall deposit an administrative penalty imposed under this section  
2913 into the General Fund.



2914 (3) For a person subject to an uncontested citation, a stipulated settlement, or a finding  
2915 of a violation in an adjudicative proceeding under this section, the department may:

2916 (a) for a fine amount not already specified in law, assess the person a fine of up to  
2917 \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule  
2918 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

2919 (b) order the person to cease and desist from the action that creates a violation.

2920 (4) The department may not revoke a medical cannabis pharmacy's license or a medical  
2921 cannabis courier's license without first directing the medical cannabis pharmacy or [a] the  
2922 medical cannabis [~~courier's license~~] courier to appear before an adjudicative proceeding  
2923 conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2924 (5) If, within 20 calendar days after the day on which the department issues a citation  
2925 for a violation of this chapter, the person that is the subject of the citation fails to request a  
2926 hearing to contest the citation, the citation becomes the department's final order.

2927 (6) The department may, for a person who fails to comply with a citation under this  
2928 section:

2929 (a) refuse to issue or renew the person's license or agent registration card; or

2930 (b) suspend, revoke, or place on probation the person's license or agent registration  
2931 card.

2932 (7) (a) Except where a criminal penalty is expressly provided for a specific violation of  
2933 this chapter, if an individual violates a provision of this chapter, the individual is:

2934 (i) guilty of an infraction; and

2935 (ii) subject to a \$100 fine.

2936 (b) An individual who is guilty of a violation described in Subsection (7)(a) is not  
2937 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
2938 underlying the violation described in Subsection (7)(a).

2939 Section 44. Section **30-3-37** is amended to read:

2940 **30-3-37. Relocation.**

2941 (1) For purposes of this section, "relocation" means moving 150 miles or more from

2942 the residence of the other parent.

2943 (2) The relocating parent shall provide 60 days advance written notice of the intended  
2944 relocation to the other parent. The written notice of relocation shall contain statements  
2945 affirming the following:

2946 (a) the parent-time provisions in Subsection [~~(5)~~] (6) or a schedule approved by both  
2947 parties will be followed; and

2948 (b) neither parent will interfere with the other's parental rights pursuant to court  
2949 ordered parent-time arrangements, or the schedule approved by both parties.

2950 (3) The court shall, upon motion of any party or upon the court's own motion, schedule  
2951 a hearing with notice to review the notice of relocation and parent-time schedule as provided in  
2952 Section 30-3-35 and make appropriate orders regarding the parent-time and costs for  
2953 parent-time transportation.

2954 (4) In a hearing to review the notice of relocation, the court shall, in determining if the  
2955 relocation of a custodial parent is in the best interest of the child, consider any other factors that  
2956 the court considers relevant to the determination. If the court determines that relocation is not  
2957 in the best interest of the child, and the custodial parent relocates, the court may order a change  
2958 of custody.

2959 (5) If the court finds that the relocation is in the best interest of the child, the court shall  
2960 determine the parent-time schedule and allocate the transportation costs that will be incurred  
2961 for the child to visit the noncustodial parent. In making its determination, court shall consider:

- 2962 (a) the reason for the parent's relocation;
- 2963 (b) the additional costs or difficulty to both parents in exercising parent-time;
- 2964 (c) the economic resources of both parents; and
- 2965 (d) other factors the court considers necessary and relevant.

2966 (6) Unless otherwise ordered by the court, upon the relocation, as defined in  
2967 Subsection (1), of one of the parties the following schedule shall be the minimum requirements  
2968 for parent-time for children 5 to 18 years of age:

2969 (a) in years ending in an odd number, the child shall spend the following holidays with

2970 the noncustodial parent:

2971 (i) Thanksgiving holiday beginning Wednesday until Sunday; and

2972 (ii) Spring break, if applicable, beginning the last day of school before the holiday until  
2973 the day before school resumes;

2974 (b) in years ending in an even number, the child shall spend the following holidays  
2975 with the noncustodial parent:

2976 (i) the entire winter school break period; and

2977 (ii) the Fall school break beginning the last day of school before the holiday until the  
2978 day before school resumes;

2979 (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive  
2980 weeks. The children should be returned to the custodial home no later than seven days before  
2981 school begins; however, this week shall be counted when determining the amount of  
2982 parent-time to be divided between the parents for the summer or off-track period; and

2983 (d) one weekend per month, at the option and expense of the noncustodial parent.

2984 (7) The court may also set a parent-time schedule for children under the age of five.

2985 The schedule shall take into consideration the following:

2986 (a) the age of the child;

2987 (b) the developmental needs of the child;

2988 (c) the distance between the parents' homes;

2989 (d) the travel arrangements and cost;

2990 (e) the level of attachment between the child and the noncustodial parent; and

2991 (f) any other factors relevant to the best interest of the child.

2992 (8) The noncustodial parent's monthly weekend entitlement is subject to the following  
2993 restrictions.

2994 (a) If the noncustodial parent has not designated a specific weekend for parent-time,  
2995 the noncustodial parent shall receive the last weekend of each month unless a holiday assigned  
2996 to the custodial parent falls on that particular weekend. If a holiday assigned to the custodial  
2997 parent falls on the last weekend of the month, the noncustodial parent shall be entitled to the

2998 next to the last weekend of the month.

2999 (b) If a noncustodial parent's extended parent-time or parent-time over a holiday  
3000 extends into or through the first weekend of the next month, that weekend shall be considered  
3001 the noncustodial parent's monthly weekend entitlement for that month.

3002 (c) If a child is out of school for teacher development days or snow days after the  
3003 children begin the school year, or other days not included in the list of holidays in Subsection  
3004 (6) and those days are contiguous with the noncustodial parent's monthly weekend parent-time,  
3005 those days shall be included in the weekend parent-time.

3006 (9) The custodial parent is entitled to all parent-time not specifically allocated to the  
3007 noncustodial parent.

3008 (10) In the event finances and distance preclude the exercise of minimum parent-time  
3009 for the noncustodial parent during the school year, the court should consider awarding more  
3010 time for the noncustodial parent during the summer time if it is in the best interests of the  
3011 children.

3012 (11) Upon the motion of any party, the court may order uninterrupted parent-time with  
3013 the noncustodial parent for a minimum of 30 days during extended parent-time, unless the  
3014 court finds it is not in the best interests of the child. If the court orders uninterrupted  
3015 parent-time during a period not covered by this section, it shall specify in its order which parent  
3016 is responsible for the child's travel expenses.

3017 (12) Unless otherwise ordered by the court the relocating party shall be responsible for  
3018 all the child's travel expenses relating to Subsections (6)(a) and (b) and 1/2 of the child's travel  
3019 expenses relating to Subsection (6)(c), provided the noncustodial parent is current on all  
3020 support obligations. If the noncustodial parent has been found in contempt for not being  
3021 current on all support obligations, the noncustodial parent shall be responsible for all of the  
3022 child's travel expenses under Subsection (6), unless the court rules otherwise. Reimbursement  
3023 by either responsible party to the other for the child's travel expenses shall be made within 30  
3024 days of receipt of documents detailing those expenses.

3025 (13) The court may apply this provision to any preexisting decree of divorce.

3026 (14) Any action under this section may be set for an expedited hearing.

3027 (15) A parent who fails to comply with the notice of relocation in Subsection (2) shall  
3028 be in contempt of the court's order.

3029 Section 45. Section **31A-2-218** is amended to read:

3030 **31A-2-218. Strategic plan for health system reform.**

3031 The commissioner and the department shall:

3032 (1) work with the Governor's Office of Economic Development, the Department of  
3033 Health, the Department of Workforce Services, and the Legislature to develop health system  
3034 reform [~~in accordance with the strategic plan described in Title 63N, Chapter 11, Health~~  
3035 ~~System Reform Act~~];

3036 (2) work with health insurers in accordance with Section **31A-22-635** to develop  
3037 standards for health insurance applications and compatible electronic systems;

3038 (3) facilitate a private sector method for the collection of health insurance premium  
3039 payments made for a single policy by multiple payers, including the policyholder, one or more  
3040 employers of one or more individuals covered by the policy, government programs, and others  
3041 by educating employers and insurers about collection services available through private  
3042 vendors, including financial institutions;

3043 (4) encourage health insurers to develop products that:

3044 (a) encourage health care providers to follow best practice protocols;

3045 (b) incorporate other health care quality improvement mechanisms; and

3046 (c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted  
3047 by the Health Insurance Portability and Accountability Act;

3048 (5) involve the Office of Consumer Health Assistance created in Section **31A-2-216**, as  
3049 necessary, to accomplish the requirements of this section; and

3050 (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
3051 make rules, as necessary, to implement Subsections (2), (3), and (4).

3052 Section 46. Section **31A-30-106.1** is amended to read:

3053 **31A-30-106.1. Small employer premiums -- Rating restrictions -- Disclosure.**

3054 (1) Premium rates for small employer health benefit plans under this chapter are  
3055 subject to this section.

3056 (2) (a) The index rate for a rating period for any class of business may not exceed the  
3057 index rate for any other class of business by more than 20%.

3058 (b) For a class of business, the premium rates charged during a rating period to covered  
3059 insureds with similar case characteristics for the same or similar coverage, or the rates that  
3060 could be charged to an employer group under the rating system for that class of business, may  
3061 not vary from the index rate by more than 30% of the index rate, except when catastrophic  
3062 mental health coverage is selected as provided in Subsection 31A-22-625(2)(d).

3063 (3) The percentage increase in the premium rate charged to a covered insured for a new  
3064 rating period, adjusted pro rata for rating periods less than a year, may not exceed the sum of  
3065 the following:

3066 (a) the percentage change in the new business premium rate measured from the first  
3067 day of the prior rating period to the first day of the new rating period;

3068 (b) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods  
3069 of less than one year, due to the claim experience, health status, or duration of coverage of the  
3070 covered individuals as determined from the small employer carrier's rate manual for the class of  
3071 business, except when catastrophic mental health coverage is selected as provided in  
3072 Subsection 31A-22-625(2)(d); and

3073 (c) any adjustment due to change in coverage or change in the case characteristics of  
3074 the covered insured as determined for the class of business from the small employer carrier's  
3075 rate manual.

3076 (4) (a) Adjustments in rates for claims experience, health status, and duration from  
3077 issue may not be charged to individual employees or dependents.

3078 (b) Rating adjustments and factors, including case characteristics, shall be applied  
3079 uniformly and consistently to the rates charged for all employees and dependents of the small  
3080 employer.

3081 (c) Rating factors shall produce premiums for identical groups that:

- 3082 (i) differ only by the amounts attributable to plan design; and
- 3083 (ii) do not reflect differences due to the nature of the groups assumed to select
- 3084 particular health benefit plans.
- 3085 (d) A small employer carrier shall treat all health benefit plans issued or renewed in the
- 3086 same calendar month as having the same rating period.
- 3087 (5) A health benefit plan that uses a restricted network provision may not be considered
- 3088 similar coverage to a health benefit plan that does not use a restricted network provision,
- 3089 provided that use of the restricted network provision results in substantial difference in claims
- 3090 costs.
- 3091 (6) The small employer carrier may not use case characteristics other than the
- 3092 following:
- 3093 (a) age of the employee, in accordance with Subsection (7);
- 3094 (b) geographic area;
- 3095 (c) family composition in accordance with Subsection (9);
- 3096 (d) for plans renewed or effective on or after July 1, 2011, gender of the employee and
- 3097 spouse;
- 3098 (e) for an individual age 65 and older, whether the employer policy is primary or
- 3099 secondary to Medicare; and
- 3100 (f) a wellness program, in accordance with Subsection (12).
- 3101 (7) Age limited to:
- 3102 (a) the following age bands:
- 3103 (i) less than 20;
- 3104 (ii) 20-24;
- 3105 (iii) 25-29;
- 3106 (iv) 30-34;
- 3107 (v) 35-39;
- 3108 (vi) 40-44;
- 3109 (vii) 45-49;

- 3110 (viii) 50-54;
- 3111 (ix) 55-59;
- 3112 (x) 60-64; and
- 3113 (xi) 65 and above; and
- 3114 (b) a standard slope ratio range for each age band, applied to each family composition
- 3115 tier rating structure under Subsection (9)(b):
- 3116 (i) as developed by the commissioner by administrative rule; and
- 3117 (ii) not to exceed an overall ratio as provided in Subsection (8).
- 3118 (8) (a) The overall ratio permitted in Subsection (7)(b)(ii) may not exceed:
- 3119 (i) 5:1 for plans renewed or effective before January 1, 2012; and
- 3120 (ii) 6:1 for plans renewed or effective on or after January 1, 2012; and
- 3121 (b) the age slope ratios for each age band may not overlap.
- 3122 (9) [~~Except as provided in Subsection 31A-30-207(2), family~~] Family composition is
- 3123 limited to:
- 3124 (a) an overall ratio of:
- 3125 (i) 5:1 or less for plans renewed or effective before January 1, 2012; and
- 3126 (ii) 6:1 or less for plans renewed or effective on or after January 1, 2012; and
- 3127 (b) a tier rating structure that includes:
- 3128 (i) four tiers that include:
- 3129 (A) employee only;
- 3130 (B) employee plus spouse;
- 3131 (C) employee plus a child or children; and
- 3132 (D) a family, consisting of an employee plus spouse, and a child or children;
- 3133 (ii) for plans renewed or effective on or after January 1, 2012, five tiers that include:
- 3134 (A) employee only;
- 3135 (B) employee plus spouse;
- 3136 (C) employee plus one child;
- 3137 (D) employee plus two or more children; and



- 3138 (E) employee plus spouse plus one or more children; or
- 3139 (iii) for plans renewed or effective on or after January 1, 2012, six tiers that include:
- 3140 (A) employee only;
- 3141 (B) employee plus spouse;
- 3142 (C) employee plus one child;
- 3143 (D) employee plus two or more children;
- 3144 (E) employee plus spouse plus one child; and
- 3145 (F) employee plus spouse plus two or more children.

3146 (10) If a health benefit plan is a health benefit plan into which the small employer  
3147 carrier is no longer enrolling new covered insureds, the small employer carrier shall use the  
3148 percentage change in the base premium rate, provided that the change does not exceed, on a  
3149 percentage basis, the change in the new business premium rate for the most similar health  
3150 benefit plan into which the small employer carrier is actively enrolling new covered insureds.

3151 (11) (a) A covered carrier may not transfer a covered insured involuntarily into or out  
3152 of a class of business.

3153 (b) A covered carrier may not offer to transfer a covered insured into or out of a class  
3154 of business unless the offer is made to transfer all covered insureds in the class of business  
3155 without regard to:

- 3156 (i) case characteristics;
- 3157 (ii) claim experience;
- 3158 (iii) health status; or
- 3159 (iv) duration of coverage since issue.

3160 (12) Notwithstanding Subsection (4)(b), a small employer carrier may:

3161 (a) offer a wellness program to a small employer group if:

3162 (i) the premium discount to the employer for the wellness program does not exceed  
3163 20% of the premium for the small employer group; and

3164 (ii) the carrier offers the wellness program discount uniformly across all small  
3165 employer groups;

3166 (b) offer a premium discount as part of a wellness program to individual employees in  
3167 a small employer group:

3168 (i) to the extent allowed by federal law; and

3169 (ii) if the employee discount based on the wellness program is offered uniformly across  
3170 all small employer groups; and

3171 (c) offer a combination of premium discounts for the employer and the employee,  
3172 based on a wellness program, if:

3173 (i) the employer discount complies with Subsection (12)(a); and

3174 (ii) the employee discount complies with Subsection (12)(b).

3175 (13) (a) A small employer carrier shall maintain at the small employer carrier's  
3176 principal place of business a complete and detailed description of its rating practices and  
3177 renewal underwriting practices, including information and documentation that demonstrate that  
3178 the small employer carrier's rating methods and practices are:

3179 (i) based upon commonly accepted actuarial assumptions; and

3180 (ii) in accordance with sound actuarial principles.

3181 (b) (i) A small employer carrier shall file with the commissioner on or before April 1 of  
3182 each year, in a form and manner and containing information as prescribed by the  
3183 commissioner, an actuarial certification certifying that:

3184 (A) the small employer carrier is in compliance with this chapter; and

3185 (B) the rating methods of the small employer carrier are actuarially sound.

3186 (ii) A copy of the certification required by Subsection (13)(b)(i) shall be retained by the  
3187 small employer carrier at the small employer carrier's principal place of business.

3188 (c) A small employer carrier shall make the information and documentation described  
3189 in this Subsection (13) available to the commissioner upon request.

3190 (14) (a) The commissioner shall establish rules in accordance with Title 63G, Chapter  
3191 3, Utah Administrative Rulemaking Act, to:

3192 (i) implement this chapter; and

3193 (ii) assure that rating practices used by small employer carriers under this section and

3194 carriers for individual plans under Section 31A-30-106 are consistent with the purposes of this  
3195 chapter.

3196 (b) The rules may:

3197 (i) assure that differences in rates charged for health benefit plans by carriers are  
3198 reasonable and reflect objective differences in plan design, not including differences due to the  
3199 nature of the groups or individuals assumed to select particular health benefit plans; and

3200 (ii) prescribe the manner in which case characteristics may be used by small employer  
3201 and individual carriers.

3202 (15) Records submitted to the commissioner under this section shall be maintained by  
3203 the commissioner as protected records under Title 63G, Chapter 2, Government Records  
3204 Access and Management Act.

3205 Section 47. Section 31A-30-112 is amended to read:

3206 **31A-30-112. Employee participation levels.**

3207 (1) (a) For purposes of this section, "participation" [~~is as~~] means the same as that term  
3208 is defined in Section 31A-1-301.

3209 (b) Except as provided in Subsection (2) [~~and Section 31A-30-206~~], a requirement  
3210 used by a covered carrier in determining whether to provide coverage to a small employer,  
3211 including a participation requirement and a minimum employer contribution requirement, shall  
3212 be applied uniformly among all small employers with the same number of eligible employees  
3213 applying for coverage or receiving coverage from the covered carrier.

3214 (2) A covered carrier may not increase a participation requirement or a requirement for  
3215 minimum employer contribution, applicable to a small employer, at any time after the small  
3216 employer is accepted for coverage.

3217 Section 48. Section 31A-30-115 is amended to read:

3218 **31A-30-115. Actuarial review of health benefit plans.**

3219 (1) (a) The department shall conduct an actuarial review of rates submitted by a carrier  
3220 that offers a small employer plan and a carrier that offers an individual plan under this chapter:

3221 (i) to verify the validity of the rates, risk factors, and premiums of the plans; and

- 3222 (ii) as the department determines is necessary to oversee market conduct.
- 3223 (b) The actuarial review by the department shall be funded from a fee:
- 3224 (i) established by the department in accordance with Section 63J-1-504; and
- 3225 (ii) paid by a carrier offering a health benefit plan subject to this chapter.
- 3226 (c) The department shall ~~[(i) report aggregate data from the actuarial review to the risk~~
- 3227 ~~adjuster board created in Section 31A-42-201; and (ii)]~~ contact carriers, if the department
- 3228 determines it is appropriate, to:
- 3229 ~~[(A)]~~ (i) inform a carrier of the department's findings regarding the rates of a particular
- 3230 carrier; and
- 3231 ~~[(B)]~~ (ii) request a carrier to recalculate or verify base rates, rating factors, and
- 3232 premiums.
- 3233 (d) A carrier shall comply with the department's request under Subsection (1)(c)(ii).
- 3234 (2) (a) There is created in the General Fund a restricted account known as the "Health
- 3235 Insurance Actuarial Review Restricted Account."
- 3236 (b) The Health Insurance Actuarial Review Restricted Account shall consist of money
- 3237 received by the commissioner under this section.
- 3238 (c) The commissioner shall administer the Health Insurance Actuarial Review
- 3239 Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use
- 3240 money deposited into the Health Insurance Actuarial Review Restricted Account to pay for the
- 3241 actuarial review conducted by the department under this section.
- 3242 Section 49. Section 31A-30-117 is amended to read:
- 3243 **31A-30-117. Patient Protection and Affordable Care Act -- Market transition.**
- 3244 (1) (a) ~~[After complying with the reporting requirements of Section 63N-11-106, the]~~
- 3245 The commissioner may adopt administrative rules that change the rating and underwriting
- 3246 requirements of this chapter as necessary to transition the insurance market to meet federal
- 3247 qualified health plan standards and rating practices under PPACA.
- 3248 (b) Administrative rules adopted by the commissioner under this section may include:
- 3249 (i) the regulation of health benefit plans as described in Subsections 31A-2-212(5)(a)

3250 and (b); and  
3251 (ii) disclosure of records and information required by PPACA and state law.  
3252 (c) (i) The commissioner shall establish by administrative rule one statewide open  
3253 enrollment period that applies to the individual insurance market that is not on the PPACA  
3254 certified individual exchange.  
3255 (ii) The statewide open enrollment period:  
3256 (A) may be shorter, but no longer than the open enrollment period established for the  
3257 individual insurance market offered in the PPACA certified exchange; and  
3258 (B) may not be extended beyond the dates of the open enrollment period established  
3259 for the individual insurance market offered in the PPACA certified exchange.  
3260 (2) A carrier that offers health benefit plans in the individual market that is not part of  
3261 the individual PPACA certified exchange:  
3262 (a) shall open enrollment:  
3263 (i) during the statewide open enrollment period established in Subsection (1)(c); and  
3264 (ii) at other times, for qualifying events, as determined by administrative rule adopted  
3265 by the commissioner; and  
3266 (b) may open enrollment at any time.  
3267 (3) To the extent permitted by the Centers for Medicare and Medicaid Services policy,  
3268 or federal regulation, the commissioner shall allow a health insurer to choose to continue  
3269 coverage and individuals and small employers to choose to re-enroll in coverage in  
3270 nongrandfathered health coverage that is not in compliance with market reforms required by  
3271 PPACA.

3272 Section 50. Section **32B-7-408** is amended to read:

3273 **32B-7-408. Master off-premise beer retailer state license.**

3274 (1) (a) The commission may issue a master off-premise beer retailer state license that  
3275 authorizes a person to store, sell, or offer for sale beer for consumption off the person's  
3276 premises at multiple locations as off-premise beer retailers if the person applying for the master  
3277 off-premise beer retailer state license:

3278 (i) owns each of the off-premise beer retailers;  
3279 (ii) except for the fee requirements, establishes to the satisfaction of the commission  
3280 that each location of an off-premise beer retailer under the master off-premise beer retailer state  
3281 license separately meets the requirements of this part; and  
3282 (iii) the master off-premise beer retailer state license includes at least five off-premise  
3283 beer retailer locations.

3284 (b) The person seeking a master off-premise beer retailer state license shall designate  
3285 which off-premise beer retailer locations the person seeks to have under the master off-premise  
3286 beer retailer state license.

3287 (c) An off-premise beer retailer location under a master off-premise beer retailer state  
3288 license is considered separately licensed for purposes of this title.

3289 (2) (a) A master off-premise beer retailer state license expires on the last day of  
3290 February each year.

3291 (b) To renew a person's master off-premise beer retailer state license, a person shall  
3292 comply with the renewal requirements of Section [32B-7-403](#) by no later than January 31 of the  
3293 year in which the off-premise beer retailer state license expires.

3294 (3) (a) The nonrefundable application fee for a master off-premise beer retailer state  
3295 license is \$75.

3296 (b) The initial license fee for a master off-premise beer retailer state license is:

3297 (i) \$1,100 plus a separate initial license fee for each newly licensed off-premise beer  
3298 retailer state license under the master off-premise beer retailer state license determined in  
3299 accordance with Subsection [32B-7-402](#)(3); and

3300 (ii) refundable if the commission does not issue the master off-premise beer retailer  
3301 state license.

3302 (c) The renewal fee for a master off-premise beer retailer state license is \$300 plus a  
3303 separate renewal fee for each off-premise beer retailer state license under the master  
3304 off-premise beer retailer state license determined in accordance with Subsection  
3305 [32B-7-403](#)(2)(b).

3306 (4) A new location may be added to a master off-premise beer retailer state license  
3307 after the master off-premise beer retailer state license is issued if, including payment of the  
3308 initial license fee, the location separately meets the requirements of this part.

3309 (5) (a) A master off-premise beer retailer state licensee shall notify the department of a  
3310 change in the persons managing a location covered by a master off-premise beer retailer state  
3311 license:

3312 (i) immediately, if the management personnel is not management personnel at a  
3313 location covered by the master off-premise beer retailer state license at the time of the change;  
3314 or

3315 (ii) within 30 days of the change, if the off-premise beer retailer state licensee is  
3316 transferring management personnel from one location to another location covered by the master  
3317 off-premise beer retailer state license.

3318 (b) A location covered by a master off-premise beer retailer state license shall keep its  
3319 own records on its premises so that the department may audit the records.

3320 (c) A master off-premise beer retailer state licensee may not transfer beer between  
3321 different locations covered by the master off-premise beer retailer state license.

3322 (6) (a) If there is a violation of this title at a location covered by a master off-premise  
3323 beer retailer state license, the violation may result in disciplinary action in accordance with  
3324 Chapter 3, Disciplinary Actions and Enforcement Act, against:

3325 (i) the single location under [a] the master off-premise beer retailer state license;

3326 (ii) individual staff of the location under the master off-premise beer retailer state  
3327 license; or

3328 (iii) a combination of persons or locations described in Subsections (6)(a)(i) and (ii).

3329 (b) In addition to disciplinary action under Subsection (6)(a), disciplinary action in  
3330 accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a  
3331 master off-premise beer retailer state licensee or individual staff of the master off-premise beer  
3332 retailer state licensee if during a period beginning on March 1 and ending the last day of  
3333 February:

3334 (i) at least 25% of the locations covered by the master off-premise beer retailer state  
3335 license have been found by the commission to have committed a serious or grave violation of  
3336 this title, as defined by rule made by the commission; or

3337 (ii) at least 50% of the locations covered by the master off-premise beer retailer state  
3338 license have been found by the commission to have violated this title.

3339 (7) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah  
3340 Administrative Rulemaking Act, to establish how a person may apply for a master off-premise  
3341 beer retailer state license under this section.

3342 Section 51. Section **32B-10-206** is amended to read:

3343 **32B-10-206. General operational requirements for special use permit.**

3344 (1) (a) A special use permittee and staff of the special use permittee shall comply with  
3345 this title and rules of the commission, including the relevant part of the chapter that applies to  
3346 the type of special use permit held by the special use permittee.

3347 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
3348 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

3349 (i) a special use permittee;

3350 (ii) individual staff of a special use permittee; or

3351 (iii) a special use permittee and staff of the special use permittee.

3352 (c) The commission may suspend or revoke a special use permit with or without cause.

3353 (2) (a) If there is a conflict between this part and the relevant part under this chapter for  
3354 the specific type of special use permit, the relevant part under this chapter governs.

3355 (b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a  
3356 special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or  
3357 manufacture an alcoholic product authorized for the special use permit that is held by the  
3358 special use permittee.

3359 (c) Notwithstanding that this part or the relevant part under this chapter for the type of  
3360 special use permit held by a special use permittee refers to "special use permittee," a person  
3361 involved in the purchase, use, [~~store, sell, offer for sale, allow~~] storage, sale, offering for sale,



3362 allowing consumption, or manufacture of an alcoholic product for which the special use permit  
3363 is issued is subject to the same requirement or prohibition.

3364 (3) (a) A special use permittee shall make and maintain a record, as required by  
3365 commission rule, of any alcoholic product purchased, used, sold, or manufactured.

3366 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
3367 accordance with this Subsection (3).

3368 (4) (a) Except as otherwise provided in this title, a special use permittee may not  
3369 purchase liquor except from a state store or package agency.

3370 (b) A special use permittee may transport liquor purchased by the special use permittee  
3371 in accordance with this Subsection (4) from the place of purchase to the special use permittee's  
3372 premises.

3373 (c) A special use permittee shall purchase liquor at prices set by the commission.

3374 (d) When authorized by a special use permit, a special use permittee may purchase and  
3375 receive an alcoholic product directly from a manufacturer for a purpose that is industrial,  
3376 educational, scientific, or manufacturing.

3377 (e) A health care facility may purchase and receive an alcoholic product directly from a  
3378 manufacturer for use at the health care facility.

3379 (5) A special use permittee may not use, mix, store, sell, offer for sale, furnish,  
3380 manufacture, or allow consumption of an alcoholic product in a location other than as  
3381 designated in a special use permittee's application.

3382 (6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or  
3383 furnish an alcoholic product to:

3384 (a) a minor;

3385 (b) a person actually, apparently, or obviously intoxicated;

3386 (c) a known interdicted person; or

3387 (d) a known habitual drunkard.

3388 (7) A special use permittee may not employ a minor to handle an alcoholic product.

3389 (8) (a) The location specified in a special use permit may not be transferred from one

3390 location to another location, without prior written approval of the commission.

3391 (b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or  
3392 attempt in any way to dispose of the permit to another person whether for monetary gain or not.

3393 (9) A special use permittee may not purchase, use, mix, store, sell, offer for sale,  
3394 furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized  
3395 by the special use permit.

3396 (10) The commission may prescribe by policy or rule consistent with this title, the  
3397 general operational requirements of a special use permittee relating to:

3398 (a) physical facilities;

3399 (b) conditions of purchase, use, storage, sale, consumption, or manufacture of an  
3400 alcoholic product;

3401 (c) purchase, storage, and sales quantity limitations; and

3402 (d) other matters considered appropriate by the commission.

3403 Section 52. Section **32B-10-605** is amended to read:

3404 **32B-10-605. Religious organization exemption.**

3405 (1) A religious organization that provides or allows to be provided an alcoholic product  
3406 to a person as part of the religious organization's religious services:

3407 (a) does not violate this title by providing or allowing the provision of an alcoholic  
3408 product as part of a religious service; and

3409 (b) is not required to hold a license or special use permit to provide or allow the  
3410 provision of an alcoholic product for religious services.

3411 (2) This exemption does not exempt a religious organization from complying with this  
3412 title with respect to an alcoholic product purchased by the religious organization for a purpose  
3413 other than ~~one~~ the purpose stated in Subsection (1).

3414 Section 53. Section **32B-12-301** is amended to read:

3415 **32B-12-301. General operational requirements for liquor warehousing license.**

3416 (1) (a) A liquor warehouser licensee and staff of the liquor warehouser licensee shall  
3417 comply with this title and the rules of the commission.

3418 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action  
3419 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 3420 (i) a liquor warehouser licensee;
- 3421 (ii) individual staff of a liquor warehouser licensee; or
- 3422 (iii) both a liquor warehouser licensee and staff of the liquor warehouser licensee.

3423 (2) (a) A liquor warehouser licensee shall make and maintain records required by the  
3424 department.

3425 (b) Section 32B-1-205 applies to a record required to be made or maintained in  
3426 accordance with this Subsection (2).

3427 (3) A liquor warehousing license may not be transferred from one location to another  
3428 location, without prior written approval of the commission.

3429 (4) (a) A liquor warehouser licensee may not sell, transfer, assign, exchange, barter,  
3430 give, or attempt in any way to dispose of the license to another person, whether for monetary  
3431 gain or not.

3432 (b) A liquor warehousing license has no monetary value for any type of disposition.

3433 (5) A liquor warehouser licensee may not employ a minor to handle an alcoholic  
3434 product.

3435 (6) Liquor that is warehoused in this state and sold to an out-of-state consignee[;] may  
3436 be transported out of the state only by a motor carrier regulated under Title 72, Chapter 9,  
3437 Motor Carrier Safety Act.

3438 (7) Liquor that is warehoused in this state and sold to the department may be  
3439 transported only by a motor carrier approved by the department.

3440 (8) Liquor transported to or from a liquor warehouser licensee's licensed premises shall  
3441 be carried in a sealed conveyance that is made available for inspection by the department while  
3442 en route within the state.

3443 (9) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor  
3444 from a warehouse in less than a full case lot.

3445 (10) A liquor warehouser licensee may not ship, convey, distribute, or remove liquor

3446 from a warehouse to a consignee outside the state that is not licensed as a liquor wholesaler or  
3447 retailer by the state in which the consignee is domiciled.

3448 (11) A liquor warehouser licensee may not receive, warehouse, distribute, transport,  
3449 ship, or convey liquor that the commission has not authorized the liquor warehouser licensee to  
3450 handle through its warehouse.

3451 (12) The commission may prescribe by policy or rule, consistent with this title, the  
3452 general operational requirements of licensees relating to:

3453 (a) physical facilities;

3454 (b) conditions of storage, distribution, or transport of liquor; and

3455 (c) other matters considered appropriate by the commission.

3456 Section 54. Section **34A-1-205** is amended to read:

3457 **34A-1-205. Appeals Board -- Chair -- Appointment -- Compensation --**

3458 **Qualifications.**

3459 (1) There is created the Appeals Board within the commission consisting of three  
3460 members. The board may call and preside at adjudicative proceedings to review an order or  
3461 decision that is subject to review by the Appeals Board under this title.

3462 (2) (a) The governor shall appoint the members with the consent of the Senate and in  
3463 accordance with this section.

3464 (b) One member of the board shall be appointed to represent employers~~[, in]~~. In  
3465 making this appointment, the governor shall consider nominations from employer  
3466 organizations.

3467 (c) One member of the board shall be appointed to represent employees~~[, in]~~. In  
3468 making this appointment, the governor shall consider nominations from employee  
3469 organizations.

3470 (d) No more than two members may belong to the same political party.

3471 (e) The governor shall, at the time of appointment or reappointment, make  
3472 appointments to the board so that at least two of the members of the board are members of the  
3473 Utah State Bar in good standing or resigned from the Utah State Bar in good standing.

3474 (3) (a) The term of a member shall be six years beginning on March 1 of the year the  
3475 member is appointed, except that the governor shall, at the time of appointment or  
3476 reappointment, adjust the length of terms to ensure that the terms of members are staggered so  
3477 that one member is appointed every two years.

3478 (b) The governor may remove a member only for inefficiency, neglect of duty,  
3479 malfeasance or misfeasance in office, or other good and sufficient cause.

3480 (c) A member shall hold office until a successor is appointed and has qualified.

3481 (4) A member shall be part-time and receive compensation as provided by Title 67,  
3482 Chapter 19, Utah State Personnel Management Act.

3483 (5) (a) The chief officer of the board shall be the chair, who shall serve as the executive  
3484 and administrative head of the board.

3485 (b) The governor shall appoint and may remove at will the chair from the position of  
3486 chair.

3487 (6) A majority of the board shall constitute a quorum to transact business.

3488 (7) (a) The commission shall provide the Appeals Board necessary staff support,  
3489 except as provided in Subsection (7)(b).

3490 (b) At the request of the Appeals Board, the attorney general shall act as an impartial  
3491 aid to the Appeals Board in outlining the facts and the issues.

3492 Section 55. Section **34A-2-109** is amended to read:

3493 **34A-2-109. Interstate and intrastate commerce.**

3494 (1) Except as provided in Subsection (2), this chapter and Chapter 3, Utah  
3495 Occupational Disease Act, apply to employers and their employees engaged in:

3496 (a) intrastate commerce;

3497 (b) interstate commerce; and

3498 (c) foreign commerce.

3499 (2) If a rule of liability or method of compensation is established by the Congress of  
3500 the United States as to interstate or foreign commerce, this chapter and Chapter 3, Utah  
3501 Occupational Disease Act, apply only to the extent that:

3502 (a) this chapter and Chapter 3, Utah Occupational Disease Act, ~~has~~ have a mutual  
3503 connection with intrastate work; and

3504 (b) the connection to intrastate work is clearly separable and distinguishable from  
3505 interstate or foreign commerce.

3506 Section 56. Section **35A-1-104.5** is amended to read:

3507 **35A-1-104.5. Other department duties -- Strategic plan for health system reform**  
3508 **-- Reporting suspected misuse of a Social Security number.**

3509 (1) The department shall work with the Department of Health, the Insurance  
3510 Department, the Governor's Office of Economic Development, and the Legislature to develop  
3511 the health system reform ~~[in accordance with Title 63N, Chapter 11, Health System Reform~~  
3512 ~~Act]~~.

3513 (2) In the process of determining an individual's eligibility for a public benefit or  
3514 service under this title or under federal law, if the department determines that a valid social  
3515 security number is being used by an unauthorized individual, the department shall:

3516 (a) inform the individual who the department determines to be the likely actual owner  
3517 of the social security number or, if the likely actual owner is a minor, the minor's parent or  
3518 guardian, of the suspected misuse; and

3519 (b) subject to federal law, provide information of the suspected misuse to an  
3520 appropriate law enforcement agency responsible for investigating identity fraud.

3521 (3) If the department learns or determines that providing information under Subsection  
3522 (2)(b) is prohibited by federal law, the department shall notify the Legislative Management  
3523 Committee.

3524 Section 57. Section **35A-3-203** is amended to read:

3525 **35A-3-203. Functions and duties of office -- Annual report.**

3526 The office shall:

3527 (1) assess critical child care needs throughout the state on an ongoing basis and focus  
3528 its activities on helping to meet the most critical needs;

3529 (2) provide child care subsidy services for income-eligible children through age 12 and

- 3530 for income-eligible children with disabilities through age 18;
- 3531 (3) provide information:
- 3532 (a) to employers for the development of options for child care in the work place; and
- 3533 (b) for educating the public in obtaining quality child care;
- 3534 (4) coordinate services for quality child care training and child care resource and
- 3535 referral core services;
- 3536 (5) apply for, accept, or expend gifts or donations from public or private sources;
- 3537 (6) provide administrative support services to the committee;
- 3538 (7) work collaboratively with the following for the delivery of quality child care, early
- 3539 childhood programs, and school age programs throughout the state:
- 3540 (a) the State Board of Education; and
- 3541 (b) the Department of Health;
- 3542 (8) research child care programs and public policy to improve the quality and
- 3543 accessibility of child care, early childhood programs, and school age programs in the state;
- 3544 (9) provide planning and technical assistance for the development and implementation
- 3545 of programs in communities that lack child care, early childhood programs, and school age
- 3546 programs;
- 3547 (10) provide organizational support for the establishment of nonprofit organizations
- 3548 approved by the Child Care Advisory Committee, created in Section [35A-3-205](#);
- 3549 (11) coordinate with the department to include in the annual written report described in
- 3550 Section [35A-1-109](#) information regarding the status of child care in Utah; and
- 3551 (12) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
- 3552 Rulemaking Act, and consistent with state and federal law, establishing the eligibility
- 3553 requirements for a child care provider to receive a grant or subsidy, including for the following:
- 3554 (a) providing child care for an income-eligible child age 12 or younger; and
- 3555 (b) providing child care for an income-eligible child with disabilities age 18 or
- 3556 younger[~~;~~and].
- 3557 [~~(c) qualifying for an award from the High Quality School Readiness Grant Program~~

3558 ~~created in Section 53F-6-305.]~~

3559 Section 58. Section **38-11-202** is amended to read:

3560 **38-11-202. Payments to the fund.**

3561 Beginning on May 8, 2018, the Residence Lien Recovery Fund will no longer be  
3562 supported by special assessments and will be solely supported by:

3563 (1) fees determined by the division under Section **63J-1-504** collected from laborers  
3564 under Subsection **38-11-204**(7) when the laborers obtain a recovery from the fund;

3565 (2) amounts collected by subrogation under Section **38-11-205** on behalf of the fund  
3566 following a payment from the fund;

3567 (3) application fees determined by the division under Section **63J-1-504** collected  
3568 from:

3569 (a) qualified beneficiaries or laborers under Subsection **38-11-204**(1)(b) when qualified  
3570 beneficiaries or laborers make a claim against the fund; or

3571 (b) owners or agents of the owners seeking to obtain a certificate of compliance for the  
3572 owner;

3573 (4) registration fees determined by the division under Section **63J-1-504** collected from  
3574 other qualified beneficiaries registering with the department in accordance with Subsection  
3575 **38-11-301**(3)(a)(iii);

3576 ~~[(5) reinstatement fees determined by the division under Section **63J-1-504** collected  
3577 from registrants in accordance with Subsection **38-11-302**(5)(b);]~~

3578 ~~[(6) (5) civil fines authorized under Subsection **38-11-205**(2) collected by the attorney  
3579 general for failure to reimburse the fund; and~~

3580 ~~[(7) (6) any interest earned by the fund.~~

3581 Section 59. Section **41-1a-422** is amended to read:

3582 **41-1a-422. Support special group license plates -- Contributor -- Voluntary  
3583 contribution collection procedures.**

3584 (1) As used in this section:

3585 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who



- 3586 has donated or in whose name at least \$25 has been donated to:
- 3587           (A) a scholastic scholarship fund of a single named institution;
- 3588           (B) the Department of Veterans and Military Affairs for veterans programs;
- 3589           (C) the Division of Wildlife Resources for the Wildlife Resources Account created in
- 3590 Section [23-14-13](#), for conservation of wildlife and the enhancement, preservation, protection,
- 3591 access, and management of wildlife habitat;
- 3592           (D) the Department of Agriculture and Food for the benefit of conservation districts;
- 3593           (E) the Division of Parks and Recreation for the benefit of snowmobile programs;
- 3594           (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with
- 3595 the donation evenly divided between the two;
- 3596           (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America
- 3597 council as specified by the contributor;
- 3598           (H) No More Homeless Pets in Utah for distribution to organizations or individuals
- 3599 that provide spay and neuter programs that subsidize the sterilization of domestic animals;
- 3600           (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth
- 3601 development programs;
- 3602           (J) the Utah Association of Public School Foundations to support public education;
- 3603           (K) the Utah Housing Opportunity Restricted Account created in Section [61-2-204](#) to
- 3604 assist people who have severe housing needs;
- 3605           (L) the Public Safety Honoring Heroes Restricted Account created in Section [53-1-118](#)
- 3606 to support the families of fallen Utah Highway Patrol troopers and other Department of Public
- 3607 Safety employees;
- 3608           (M) the Division of Parks and Recreation for distribution to organizations that provide
- 3609 support for Zion National Park;
- 3610           (N) the Firefighter Support Restricted Account created in Section [53-7-109](#) to support
- 3611 firefighter organizations;
- 3612           (O) the Share the Road Bicycle Support Restricted Account created in Section
- 3613 [72-2-127](#) to support bicycle operation and safety awareness programs;

3614 (P) the Cancer Research Restricted Account created in Section 26-21a-302 to support  
3615 cancer research programs;

3616 (Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support  
3617 autism awareness programs;

3618 (R) Humanitarian Service and Educational and Cultural Exchange Restricted Account  
3619 created in Section 9-17-102 to support humanitarian service and educational and cultural  
3620 programs;

3621 (S) [~~Prostate Cancer Support Restricted Account created in Section 26-21a-303 for~~  
3622 ~~programs that conduct or support prostate cancer awareness, screening, detection, or prevention~~  
3623 ~~until September 30, 2017, and beginning on October 1, 2017, upon] Upon renewal of a prostate~~  
3624 cancer support special group license plate, to the Cancer Research Restricted Account created  
3625 in Section 26-21a-302 to support cancer research programs;

3626 (T) the Choose Life Adoption Support Restricted Account created in Section  
3627 62A-4a-608 to support programs that promote adoption;

3628 (U) the Martin Luther King, Jr. Civil Rights Support Restricted Account created in  
3629 Section 9-18-102;

3630 (V) the National Professional Men's Basketball Team Support of Women and Children  
3631 Issues Restricted Account created in Section 62A-1-202;

3632 (W) the Utah Law Enforcement Memorial Support Restricted Account created in  
3633 Section 53-1-120;

3634 (X) the Children with Cancer Support Restricted Account created in Section  
3635 26-21a-304 for programs that provide assistance to children with cancer;

3636 (Y) the National Professional Men's Soccer Team Support of Building Communities  
3637 Restricted Account created in Section 9-19-102;

3638 (Z) the Children with Heart Disease Support Restricted Account created in Section  
3639 26-58-102;

3640 (AA) the Utah Intracurricular Student Organization Support for Agricultural Education  
3641 and Leadership Restricted Account created in Section 4-42-102;

3642 (BB) the Division of Wildlife Resources for the Support for State-Owned Shooting  
3643 Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and  
3644 operation and maintenance of existing, state-owned firearm shooting ranges;

3645 (CC) the Utah State Historical Society to further the mission and purpose of the Utah  
3646 State Historical Society;

3647 (DD) the Motorcycle Safety Awareness Support Restricted Account created in Section  
3648 72-2-130; or

3649 (EE) the Transportation of Veterans to Memorials Support Restricted Account created  
3650 in Section 71-14-102.

3651 (ii) (A) For a veterans special group license plate described in Subsection  
3652 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose  
3653 name at least a \$25 donation at the time of application and \$10 annual donation thereafter has  
3654 been made.

3655 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a  
3656 person who:

3657 (I) has donated or in whose name at least \$30 has been donated at the time of  
3658 application and annually after the time of application; and

3659 (II) is a member of a trade organization for real estate licensees that has more than  
3660 15,000 Utah members.

3661 (C) For an Honoring Heroes special group license plate, "contributor" means a person  
3662 who has donated or in whose name at least \$35 has been donated at the time of application and  
3663 annually thereafter.

3664 (D) For a firefighter support special group license plate, "contributor" means a person  
3665 who:

3666 (I) has donated or in whose name at least \$15 has been donated at the time of  
3667 application and annually after the time of application; and

3668 (II) is a currently employed, volunteer, or retired firefighter.

3669 (E) For a cancer research special group license plate, "contributor" means a person who

3670 has donated or in whose name at least \$35 has been donated at the time of application and  
3671 annually after the time of application.

3672 (F) For a Martin Luther King, Jr. Civil Rights Support special group license plate,  
3673 "contributor" means a person who has donated or in whose name at least \$35 has been donated  
3674 at the time of application and annually thereafter.

3675 (G) For a Utah Law Enforcement Memorial Support special group license plate,  
3676 "contributor" means a person who has donated or in whose name at least \$35 has been donated  
3677 at the time of application and annually thereafter.

3678 (b) "Institution" means a state institution of higher education as defined under Section  
3679 [53B-3-102](#) or a private institution of higher education in the state accredited by a regional or  
3680 national accrediting agency recognized by the United States Department of Education.

3681 (2) (a) An applicant for original or renewal collegiate special group license plates under  
3682 Subsection (1)(a)(i) must be a contributor to the institution named in the application and  
3683 present the original contribution verification form under Subsection (2)(b) or make a  
3684 contribution to the division at the time of application under Subsection (3).

3685 (b) An institution with a support special group license plate shall issue to a contributor  
3686 a verification form designed by the commission containing:

- 3687 (i) the name of the contributor;
- 3688 (ii) the institution to which a donation was made;
- 3689 (iii) the date of the donation; and
- 3690 (iv) an attestation that the donation was for a scholastic scholarship.

3691 (c) The state auditor may audit each institution to verify that the money collected by the  
3692 institutions from contributors is used for scholastic scholarships.

3693 (d) After an applicant has been issued collegiate license plates or renewal decals, the  
3694 commission shall charge the institution whose plate was issued, a fee determined in accordance  
3695 with Section [63J-1-504](#) for management and administrative expenses incurred in issuing and  
3696 renewing the collegiate license plates.

3697 (e) If the contribution is made at the time of application, the contribution shall be

3698 collected, treated, and deposited as provided under Subsection (3).

3699 (3) (a) An applicant for original or renewal support special group license plates under  
3700 this section must be a contributor to the sponsoring organization associated with the license  
3701 plate.

3702 (b) This contribution shall be:

3703 (i) unless collected by the named institution under Subsection (2), collected by the  
3704 division;

3705 (ii) considered a voluntary contribution for the funding of the activities specified under  
3706 this section and not a motor vehicle registration fee;

3707 (iii) deposited into the appropriate account less actual administrative costs associated  
3708 with issuing the license plates; and

3709 (iv) for a firefighter special group license plate, deposited into the appropriate account  
3710 less:

3711 (A) the costs of reordering firefighter special group license plate decals; and

3712 (B) the costs of replacing recognition special group license plates with new license  
3713 plates under Subsection [41-1a-1211](#)(13).

3714 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to  
3715 registration or renewal of registration.

3716 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to  
3717 the division when issuing original:

3718 (i) snowmobile license plates; or

3719 (ii) conservation license plates.

3720 (4) Veterans license plates shall display one of the symbols representing the Army,  
3721 Navy, Air Force, Marines, Coast Guard, or American Legion.

3722 Section 60. Section **41-1a-1008** is amended to read:

3723 **41-1a-1008. Criminal penalty for violation.**

3724 (1) Except as provided in Subsection (2) or unless otherwise provided, it is a class A  
3725 misdemeanor to knowingly violate Sections [41-1a-1001](#) through [~~41-1a-1007~~] [41-1a-1006](#).

3726 (2) Any owner, who is not a manufacturer, dealer, motor vehicle auction, or consignor  
3727 to a motor vehicle auction not licensed under Section 41-3-201, who knowingly or  
3728 intentionally conceals, removes, destroys, or alters a disclosure statement or a certificate of title  
3729 branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3 is guilty of a:

3730 (a) class A misdemeanor; or

3731 (b) third degree felony if the person has previously been convicted two or more times  
3732 of knowingly or intentionally concealing, removing, destroying, or altering a disclosure  
3733 statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004  
3734 through 41-1a-1005.3.

3735 (3) Criminal penalties under this chapter are not exclusive, but are in addition to those  
3736 under Section 76-10-1801.

3737 (4) Each vehicle sold, offered for sale, or displayed for sale in violation of Section  
3738 41-1a-1005.3 shall be a separate offense.

3739 Section 61. Section 41-3-105 is amended to read:

3740 **41-3-105. Administrator's powers and duties -- Administrator and investigators**  
3741 **to be law enforcement officers.**

3742 (1) The administrator may make rules to carry out the purposes of this chapter and  
3743 Sections 41-1a-1001 through [~~41-1a-1007~~] 41-1a-1006 according to the procedures and  
3744 requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3745 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to  
3746 discharge the duties under this chapter and may designate the duties of those clerks, deputies,  
3747 and assistants.

3748 (b) The administrator, assistant administrator, and all investigators shall be law  
3749 enforcement officers certified by peace officer standards and training as required by Section  
3750 53-13-103.

3751 (3) (a) The administrator may investigate any suspected or alleged violation of:

3752 (i) this chapter;

3753 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

- 3754 (iii) any law concerning motor vehicle fraud; or  
3755 (iv) any rule made by the administrator.
- 3756 (b) The administrator may bring an action in the name of the state against any person to  
3757 enjoin a violation found under Subsection (3)(a).
- 3758 (4) (a) The administrator may prescribe forms to be used for applications for licenses.
- 3759 (b) The administrator may require information from the applicant concerning the  
3760 applicant's fitness to be licensed.
- 3761 (c) Each application for a license shall contain:
- 3762 (i) if the applicant is an individual, the name and residence address of the applicant and  
3763 the trade name, if any, under which the applicant intends to conduct business;
- 3764 (ii) if the applicant is a partnership, the name and residence address of each partner,  
3765 whether limited or general, and the name under which the partnership business will be  
3766 conducted;
- 3767 (iii) if the applicant is a corporation, the name of the corporation, and the name and  
3768 residence address of each of its principal officers and directors;
- 3769 (iv) a complete description of the principal place of business, including:
- 3770 (A) the municipality, with the street and number, if any;
- 3771 (B) if located outside of any municipality, a general description so that the location can  
3772 be determined; and
- 3773 (C) any other places of business operated and maintained by the applicant in  
3774 conjunction with the principal place of business;
- 3775 (v) if the application is for a new motor vehicle dealer's license, the name of each  
3776 motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of  
3777 the manufacturer or distributor who has enfranchised the applicant, and the name and address  
3778 of each individual who will act as a salesperson under authority of the license;
- 3779 (vi) at least five years of business history;
- 3780 (vii) the federal tax identification number issued to the dealer;
- 3781 (viii) the sales and use tax license number issued to the dealer under Title 59, Chapter

3782 12, Sales and Use Tax Act; and

3783 (ix) if the application is for a direct-sale manufacturer's license:

3784 (A) the name of each line-make the applicant will sell, display for sale, or offer for sale  
3785 or exchange;

3786 (B) the name and address of each individual who will act as a direct-sale manufacturer  
3787 salesperson under authority of the license;

3788 (C) a complete description of the direct-sale manufacturer's authorized service center,  
3789 including the address and any other place of business the applicant operates and maintains in  
3790 conjunction with the authorized service center;

3791 (D) a sworn statement that the applicant complies with each qualification for a  
3792 direct-sale manufacturer under this chapter;

3793 (E) a sworn statement that if at any time the applicant fails to comply with a  
3794 qualification for a direct-sale manufacturer under this chapter, the applicant will inform the  
3795 division in writing within 10 business days after the day on which the noncompliance occurs;  
3796 and

3797 (F) an acknowledgment that if the applicant fails to comply with a qualification for a  
3798 direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the  
3799 applicant's direct-sale manufacturer license in accordance with Section [41-3-209](#).

3800 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement  
3801 Administrator, State of Utah," to authenticate the acts of the administrator's office.

3802 (6) (a) The administrator may require that a licensee erect or post signs or devices on  
3803 the licensee's principal place of business and any other sites, equipment, or locations operated  
3804 and maintained by the licensee in conjunction with the licensee's business.

3805 (b) The signs or devices shall state the licensee's name, principal place of business,  
3806 type and number of licenses, and any other information that the administrator considers  
3807 necessary to identify the licensee.

3808 (c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah  
3809 Administrative Rulemaking Act, determining allowable size and shape of signs or devices,



3810 lettering and other details of signs or devices, and location of signs or devices.

3811 (7) (a) The administrator shall provide for quarterly meetings of the advisory board and  
3812 may call special meetings.

3813 (b) Notices of all meetings shall be sent to each member not fewer than five days  
3814 before the meeting.

3815 (8) The administrator, the officers and inspectors of the division designated by the  
3816 commission, and peace officers shall:

3817 (a) make arrests upon view and without warrant for any violation committed in their  
3818 presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

3819 (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is  
3820 being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require  
3821 the driver of the vehicle to stop, exhibit the person's driver license and the registration card  
3822 issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and  
3823 registration card;

3824 (c) serve all warrants relating to the enforcement of the laws regulating the operation of  
3825 motor vehicles, trailers, and semitrailers;

3826 (d) investigate traffic accidents and secure testimony of any witnesses or persons  
3827 involved; and

3828 (e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

3829 (9) The administrator may contract with a public prosecutor to provide additional  
3830 prosecution of this chapter.

3831 Section 62. Section **41-6a-102** is amended to read:

3832 **41-6a-102. Definitions.**

3833 As used in this chapter:

3834 (1) "Alley" means a street or highway intended to provide access to the rear or side of  
3835 lots or buildings in urban districts and not intended for through vehicular traffic.

3836 (2) "All-terrain type I vehicle" means the same as that term is defined in Section  
3837 [41-22-2](#).

- 3838 (3) "Authorized emergency vehicle" includes:
- 3839 (a) fire department vehicles;
- 3840 (b) police vehicles;
- 3841 (c) ambulances; and
- 3842 (d) other publicly or privately owned vehicles as designated by the commissioner of the
- 3843 Department of Public Safety.
- 3844 (4) "Autocycle" means the same as that term is defined in Section [53-3-102](#).
- 3845 (5) (a) "Bicycle" means a wheeled vehicle:
- 3846 (i) propelled by human power by feet or hands acting upon pedals or cranks;
- 3847 (ii) with a seat or saddle designed for the use of the operator;
- 3848 (iii) designed to be operated on the ground; and
- 3849 (iv) whose wheels are not less than 14 inches in diameter.
- 3850 (b) "Bicycle" includes an electric assisted bicycle.
- 3851 (c) "Bicycle" does not include scooters and similar devices.
- 3852 (6) (a) "Bus" means a motor vehicle:
- 3853 (i) designed for carrying more than 15 passengers and used for the transportation of
- 3854 persons; or
- 3855 (ii) designed and used for the transportation of persons for compensation.
- 3856 (b) "Bus" does not include a taxicab.
- 3857 (7) (a) "Circular intersection" means an intersection that has an island, generally
- 3858 circular in design, located in the center of the intersection where traffic passes to the right of
- 3859 the island.
- 3860 (b) "Circular intersection" includes:
- 3861 (i) roundabouts;
- 3862 (ii) rotaries; and
- 3863 (iii) traffic circles.
- 3864 (8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in
- 3865 Subsection (17)(d)(i).

3866 (9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in  
3867 Subsection (17)(d)(ii).

3868 (10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in  
3869 Subsection (17)(d)(iii).

3870 (11) "Commissioner" means the commissioner of the Department of Public Safety.

3871 (12) "Controlled-access highway" means a highway, street, or roadway:

3872 (a) designed primarily for through traffic; and

3873 (b) to or from which owners or occupants of abutting lands and other persons have no  
3874 legal right of access, except at points as determined by the highway authority having  
3875 jurisdiction over the highway, street, or roadway.

3876 (13) "Crosswalk" means:

3877 (a) that part of a roadway at an intersection included within the connections of the  
3878 lateral lines of the sidewalks on opposite sides of the highway measured from:

3879 (i) (A) the curbs; or

3880 (B) in the absence of curbs, from the edges of the traversable roadway; and

3881 (ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway  
3882 included within the extension of the lateral lines of the existing sidewalk at right angles to the  
3883 centerline; or

3884 (b) any portion of a roadway at an intersection or elsewhere distinctly indicated for  
3885 pedestrian crossing by lines or other markings on the surface.

3886 (14) "Department" means the Department of Public Safety.

3887 (15) "Direct supervision" means oversight at a distance within which:

3888 (a) visual contact is maintained; and

3889 (b) advice and assistance can be given and received.

3890 (16) "Divided highway" means a highway divided into two or more roadways by:

3891 (a) an unpaved intervening space;

3892 (b) a physical barrier; or

3893 (c) a clearly indicated dividing section constructed to impede vehicular traffic.

- 3894 (17) "Electric assisted bicycle" means a bicycle with an electric motor that:
- 3895 (a) has a power output of not more than 750 watts;
- 3896 (b) has fully operable pedals on permanently affixed cranks;
- 3897 (c) is fully operable as a bicycle without the use of the electric motor; and
- 3898 (d) is one of the following:
- 3899 (i) an electric assisted bicycle equipped with a motor or electronics that:
- 3900 (A) provides assistance only when the rider is pedaling; and
- 3901 (B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per
- 3902 hour;
- 3903 (ii) an electric assisted bicycle equipped with a motor or electronics that:
- 3904 (A) may be used exclusively to propel the bicycle; and
- 3905 (B) is not capable of providing assistance when the bicycle reaches the speed of 20
- 3906 miles per hour; or
- 3907 (iii) an electric assisted bicycle equipped with a motor or electronics that:
- 3908 (A) provides assistance only when the rider is pedaling;
- 3909 (B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per
- 3910 hour; and
- 3911 (C) is equipped with a speedometer.
- 3912 (18) (a) "Electric personal assistive mobility device" means a self-balancing device
- 3913 with:
- 3914 (i) two nontandem wheels in contact with the ground;
- 3915 (ii) a system capable of steering and stopping the unit under typical operating
- 3916 conditions;
- 3917 (iii) an electric propulsion system with average power of one horsepower or 750 watts;
- 3918 (iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and
- 3919 (v) a deck design for a person to stand while operating the device.
- 3920 (b) "Electric personal assistive mobility device" does not include a wheelchair.
- 3921 (19) "Explosives" means a chemical compound or mechanical mixture commonly used

3922 or intended for the purpose of producing an explosion and that contains any oxidizing and  
3923 combustive units or other ingredients in proportions, quantities, or packing so that an ignition  
3924 by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture  
3925 may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are  
3926 capable of producing destructive effects on contiguous objects or of causing death or serious  
3927 bodily injury.

3928 (20) "Farm tractor" means a motor vehicle designed and used primarily as a farm  
3929 implement, for drawing plows, mowing machines, and other implements of husbandry.

3930 (21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less,  
3931 as determined by a tagliabue or equivalent closed-cup test device.

3932 (22) "Freeway" means a controlled-access highway that is part of the interstate system  
3933 as defined in Section [72-1-102](#).

3934 (23) "Gore area" means the area delineated by two solid white lines that is between a  
3935 continuing lane of a through roadway and a lane used to enter or exit the continuing lane  
3936 including similar areas between merging or splitting highways.

3937 (24) "Gross weight" means the weight of a vehicle without a load plus the weight of  
3938 any load on the vehicle.

3939 (25) "Highway" means the entire width between property lines of every way or place of  
3940 any nature when any part of it is open to the use of the public as a matter of right for vehicular  
3941 travel.

3942 (26) "Highway authority" means the same as that term is defined in Section [72-1-102](#).

3943 (27) (a) "Intersection" means the area embraced within the prolongation or connection  
3944 of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or  
3945 more highways that join one another.

3946 (b) Where a highway includes two roadways 30 feet or more apart:

3947 (i) every crossing of each roadway of the divided highway by an intersecting highway  
3948 is a separate intersection; and

3949 (ii) if the intersecting highway also includes two roadways 30 feet or more apart, then

3950 every crossing of two roadways of the highways is a separate intersection.

3951 (c) "Intersection" does not include the junction of an alley with a street or highway.

3952 (28) "Island" means an area between traffic lanes or at an intersection for control of  
3953 vehicle movements or for pedestrian refuge designated by:

3954 (a) pavement markings, which may include an area designated by two solid yellow  
3955 lines surrounding the perimeter of the area;

3956 (b) channelizing devices;

3957 (c) curbs;

3958 (d) pavement edges; or

3959 (e) other devices.

3960 (29) "Lane filtering" means, when operating a motorcycle other than an autocycle, the  
3961 act of overtaking and passing another vehicle that is stopped in the same direction of travel in  
3962 the same lane.

3963 (30) "Law enforcement agency" means the same as that term is as defined in Section  
3964 [53-1-102](#).

3965 (31) "Limited access highway" means a highway:

3966 (a) that is designated specifically for through traffic; and

3967 (b) over, from, or to which neither owners nor occupants of abutting lands nor other  
3968 persons have any right or easement, or have only a limited right or easement of access, light,  
3969 air, or view.

3970 (32) "Local highway authority" means the legislative, executive, or governing body of  
3971 a county, municipal, or other local board or body having authority to enact laws relating to  
3972 traffic under the constitution and laws of the state.

3973 (33) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

3974 (i) is designed to be operated at speeds of not more than 25 miles per hour; and

3975 (ii) has a capacity of not more than six passengers, including a conventional driver or  
3976 fallback-ready user if on board the vehicle, as those terms are defined in Section [41-26-102.1](#).

3977 (b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

3978 (34) "Metal tire" means a tire, the surface of which in contact with the highway is  
3979 wholly or partly of metal or other hard nonresilient material.

3980 (35) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or  
3981 saddle that is less than 24 inches from the ground as measured on a level surface with properly  
3982 inflated tires.

3983 (b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

3984 (c) "Mini-motorcycle" does not include a motorcycle that is:

3985 (i) designed for off-highway use; and

3986 (ii) registered as an off-highway vehicle under Section [41-22-3](#).

3987 (36) "Mobile home" means:

3988 (a) a trailer or semitrailer that is:

3989 (i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping  
3990 place either permanently or temporarily; and

3991 (ii) equipped for use as a conveyance on streets and highways; or

3992 (b) a trailer or a semitrailer whose chassis and exterior shell is designed and  
3993 constructed for use as a mobile home, as defined in Subsection (36)(a), but that is instead used  
3994 permanently or temporarily for:

3995 (i) the advertising, sale, display, or promotion of merchandise or services; or

3996 (ii) any other commercial purpose except the transportation of property for hire or the  
3997 transportation of property for distribution by a private carrier.

3998 (37) (a) "Moped" means a motor-driven cycle having:

3999 (i) pedals to permit propulsion by human power; and

4000 (ii) a motor that:

4001 (A) produces not more than two brake horsepower; and

4002 (B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on  
4003 level ground.

4004 (b) If an internal combustion engine is used, the displacement may not exceed 50 cubic  
4005 centimeters and the moped shall have a power drive system that functions directly or

4006 automatically without clutching or shifting by the operator after the drive system is engaged.

4007 (c) "Moped" does not include:

4008 (i) an electric assisted bicycle; or

4009 (ii) a motor assisted scooter.

4010 (38) (a) "Motor assisted scooter" means a self-propelled device with:

4011 (i) at least two wheels in contact with the ground;

4012 (ii) a braking system capable of stopping the unit under typical operating conditions;

4013 (iii) an electric motor not exceeding 2,000 watts;

4014 (iv) either:

4015 (A) handlebars and a deck design for a person to stand while operating the device; or

4016 (B) handlebars and a seat designed for a person to sit, straddle, or stand while operating

4017 the device; and

4018 (v) a design for the ability to be propelled by human power alone; and

4019 (vi) a maximum speed of 20 miles per hour on a paved level surface.

4020 (b) "Motor assisted scooter" does not include:

4021 (i) an electric assisted bicycle; or

4022 (ii) a motor-driven cycle.

4023 (39) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is

4024 propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

4025 (b) "Motor vehicle" does not include:

4026 (i) vehicles moved solely by human power;

4027 (ii) motorized wheelchairs;

4028 (iii) an electric personal assistive mobility device;

4029 (iv) an electric assisted bicycle;

4030 (v) a motor assisted scooter;

4031 (vi) a personal delivery device, as defined in Section [41-6a-1119](#); or

4032 (vii) a mobile carrier, as defined in Section [41-6a-1120](#).

4033 (40) "Motorcycle" means:



4034 (a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider  
4035 and designed to travel with not more than three wheels in contact with the ground; or

4036 (b) an autocycle.

4037 (41) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle  
4038 having:

4039 (i) an engine with less than 150 cubic centimeters displacement; or

4040 (ii) a motor that produces not more than five horsepower.

4041 (b) "Motor-driven cycle" does not include:

4042 (i) an electric personal assistive mobility device;

4043 (ii) a motor assisted scooter; or

4044 (iii) an electric assisted bicycle.

4045 (42) "Off-highway implement of husbandry" means the same as that term is defined  
4046 under Section [41-22-2](#).

4047 (43) "Off-highway vehicle" means the same as that term is defined under Section  
4048 [41-22-2](#).

4049 (44) "Operate" means the same as that term is defined in Section [41-1a-102](#).

4050 (45) "Operator" means:

4051 (a) a human driver, as defined in Section [41-26-102.1](#), that operates a vehicle; or

4052 (b) an automated driving system, as defined in Section [41-26-102.1](#), that operates a  
4053 vehicle.

4054 (46) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is  
4055 occupied or not.

4056 (b) "Park" or "parking" does not include:

4057 (i) the standing of a vehicle temporarily for the purpose of and while actually engaged  
4058 in loading or unloading property or passengers; or

4059 (ii) a motor vehicle with an engaged automated driving system that has achieved a  
4060 minimal risk condition, as those terms are defined in Section [41-26-102.1](#).

4061 (47) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace

4062 Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic  
4063 laws.

4064 (48) "Pedestrian" means a person traveling:

4065 (a) on foot; or

4066 (b) in a wheelchair.

4067 (49) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate  
4068 pedestrians.

4069 (50) "Person" means a natural person, firm, copartnership, association, corporation,  
4070 business trust, estate, trust, partnership, limited liability company, association, joint venture,  
4071 governmental agency, public corporation, or any other legal or commercial entity.

4072 (51) "Pole trailer" means a vehicle without motive power:

4073 (a) designed to be drawn by another vehicle and attached to the towing vehicle by  
4074 means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

4075 (b) that is ordinarily used for transporting long or irregular shaped loads including  
4076 poles, pipes, or structural members generally capable of sustaining themselves as beams  
4077 between the supporting connections.

4078 (52) "Private road or driveway" means every way or place in private ownership and  
4079 used for vehicular travel by the owner and those having express or implied permission from the  
4080 owner, but not by other persons.

4081 (53) "Railroad" means a carrier of persons or property upon cars operated on stationary  
4082 rails.

4083 (54) "Railroad sign or signal" means a sign, signal, or device erected by authority of a  
4084 public body or official or by a railroad and intended to give notice of the presence of railroad  
4085 tracks or the approach of a railroad train.

4086 (55) "Railroad train" means a locomotive propelled by any form of energy, coupled  
4087 with or operated without cars, and operated upon rails.

4088 (56) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful  
4089 manner in preference to another vehicle or pedestrian approaching under circumstances of

4090 direction, speed, and proximity that give rise to danger of collision unless one grants  
4091 precedence to the other.

4092 (57) (a) "Roadway" means that portion of highway improved, designed, or ordinarily  
4093 used for vehicular travel.

4094 (b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of  
4095 them are used by persons riding bicycles or other human-powered vehicles.

4096 (c) "Roadway" refers to any roadway separately but not to all roadways collectively, if  
4097 a highway includes two or more separate roadways.

4098 (58) "Safety zone" means the area or space officially set apart within a roadway for the  
4099 exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to  
4100 be plainly visible at all times while set apart as a safety zone.

4101 (59) (a) "School bus" means a motor vehicle that:

4102 (i) complies with the color and identification requirements of the most recent edition of  
4103 "Minimum Standards for School Buses"; and

4104 (ii) is used to transport school children to or from school or school activities.

4105 (b) "School bus" does not include a vehicle operated by a common carrier in  
4106 transportation of school children to or from school or school activities.

4107 (60) (a) "Semitrailer" means a vehicle with or without motive power:

4108 (i) designed for carrying persons or property and for being drawn by a motor vehicle;  
4109 and

4110 (ii) constructed so that some part of its weight and that of its load rests on or is carried  
4111 by another vehicle.

4112 (b) "Semitrailer" does not include a pole trailer.

4113 (61) "Shoulder area" means:

4114 (a) that area of the hard-surfaced highway separated from the roadway by a pavement  
4115 edge line as established in the current approved "Manual on Uniform Traffic Control Devices";  
4116 or

4117 (b) that portion of the road contiguous to the roadway for accommodation of stopped

4118 vehicles, for emergency use, and for lateral support.

4119 (62) "Sidewalk" means that portion of a street between the curb lines, or the lateral  
4120 lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

4121 (63) "Solid rubber tire" means a tire of rubber or other resilient material that does not  
4122 depend on compressed air for the support of the load.

4123 (64) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied  
4124 or not, for the purpose of and while actually engaged in receiving or discharging passengers.

4125 (65) "Stop" when required means complete cessation from movement.

4126 (66) "Stop" or "stopping" when prohibited means any halting even momentarily of a  
4127 vehicle, whether occupied or not, except when:

4128 (a) necessary to avoid conflict with other traffic; or

4129 (b) in compliance with the directions of a peace officer or traffic-control device.

4130 (67) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I  
4131 vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the  
4132 requirements of Section 41-6a-1509 to operate on highways in the state in accordance with  
4133 Section 41-6a-1509.

4134 (68) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other  
4135 conveyances either singly or together while using any highway for the purpose of travel.

4136 (69) "Traffic signal preemption device" means an instrument or mechanism designed,  
4137 intended, or used to interfere with the operation or cycle of a traffic-control signal.

4138 (70) "Traffic-control device" means a sign, signal, marking, or device not inconsistent  
4139 with this chapter placed or erected by a highway authority for the purpose of regulating,  
4140 warning, or guiding traffic.

4141 (71) "Traffic-control signal" means a device, whether manually, electrically, or  
4142 mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

4143 (72) (a) "Trailer" means a vehicle with or without motive power designed for carrying  
4144 persons or property and for being drawn by a motor vehicle and constructed so that no part of  
4145 its weight rests upon the towing vehicle.

4146 (b) "Trailer" does not include a pole trailer.

4147 (73) "Truck" means a motor vehicle designed, used, or maintained primarily for the  
4148 transportation of property.

4149 (74) "Truck tractor" means a motor vehicle:

4150 (a) designed and used primarily for drawing other vehicles; and

4151 (b) constructed to carry a part of the weight of the vehicle and load drawn by the truck  
4152 tractor.

4153 (75) "Two-way left turn lane" means a lane:

4154 (a) provided for vehicle operators making left turns in either direction;

4155 (b) that is not used for passing, overtaking, or through travel; and

4156 (c) that has been indicated by a lane traffic-control device that may include lane  
4157 markings.

4158 (76) "Urban district" means the territory contiguous to and including any street, in  
4159 which structures devoted to business, industry, or dwelling houses are situated at intervals of  
4160 less than 100 feet, for a distance of a quarter of a mile or more.

4161 (77) "Vehicle" means a device in, on, or by which a person or property is or may be  
4162 transported or drawn on a highway, except a mobile carrier, as defined in Section [41-6a-1120](#),  
4163 or a device used exclusively on stationary rails or tracks.

4164 Section 63. Section **51-11-102** is amended to read:

4165 **51-11-102. Definitions.**

4166 As used in this chapter:

4167 (1) "Division" means the Division of Facilities Construction and Management created  
4168 in Section [63A-5-201](#).

4169 (2) "Fund" means the Winter Sports Venue Grant Fund.

4170 (3) "Improve" or "improvements" means the replacement or addition to infrastructure,  
4171 buildings, building components, or facility equipment.

4172 (4) "Venue" means a facility:

4173 (a) designed and currently approved under standards developed by a generally

4174 recognized sports federation to host world-class level, international winter sports competitions;  
4175 and

4176 (b) used for recreational, developmental, and competitive athletic training.

4177 (5) "Venue operator" means a person who:

4178 (a) ~~(i)~~ operates a venue~~;~~ ~~and (ii) the venue~~ that is exempt from federal income  
4179 taxation under Section 501(c)(3), Internal Revenue Code; or

4180 (b) owns a venue or operates a venue under contract with the public owner of the  
4181 venue.

4182 Section 64. Section **53E-1-201** is amended to read:

4183 **53E-1-201. Reports to and action required of the Education Interim Committee.**

4184 (1) In accordance with applicable provisions and Section [68-3-14](#), the following  
4185 recurring reports are due to the Education Interim Committee:

4186 (a) the prioritized list of data research described in Section [35A-14-302](#) and the report  
4187 on research described in Section [35A-14-304](#) by the Utah Data Research Center;

4188 (b) the report described in Section [35A-15-303](#) by the State Board of Education on  
4189 preschool programs;

4190 (c) the report described in Section [53B-1-103](#) by the State Board of Regents on career  
4191 and technical education issues and addressing workforce needs;

4192 (d) the report described in Section [53B-1-107](#) by the State Board of Regents on the  
4193 activities of the State Board of Regents;

4194 (e) the report described in Section [53B-2a-104](#) by the Utah System of Technical  
4195 Colleges Board of Trustees on career and technical education issues;

4196 (f) the reports described in Section [53B-28-401](#) by the State Board of Regents and the  
4197 Utah System of Technical Colleges Board of Trustees regarding activities related to campus  
4198 safety;

4199 (g) the State Superintendent's Annual Report by the state board described in Section  
4200 [53E-1-203](#);

4201 (h) the annual report described in Section [53E-2-202](#) by the state board on the strategic

4202 plan to improve student outcomes;

4203 (i) the report described in Section [53E-8-204](#) by the state board on the Utah Schools for  
4204 the Deaf and the Blind;

4205 (j) the report described in Section [53E-10-703](#) by the Utah Leading through Effective,  
4206 Actionable, and Dynamic Education director on research and other activities;

4207 (k) the report described in Section [53F-4-203](#) by the state board and the independent  
4208 evaluator on an evaluation of early interactive reading software;

4209 (l) the report described in Section [53F-4-407](#) by the state board on UPSTART;

4210 (m) the report described in Section [53F-5-405](#) by an independent evaluator of a  
4211 partnership that receives a grant to improve educational outcomes for students who are low  
4212 income; and

4213 (n) the report described in Section [~~[63N-12-208](#)~~] [9-22-109](#) by the STEM Action Center  
4214 Board, including the information described in Section [~~[63N-12-213](#)~~] [9-22-113](#) on the status of  
4215 the computer science initiative and Section [~~[63N-12-214](#)~~] [9-22-114](#) on the Computing  
4216 Partnerships Grants Program.

4217 (2) In accordance with applicable provisions and Section [68-3-14](#), the following  
4218 occasional reports are due to the Education Interim Committee:

4219 (a) the report described in Section [35A-15-303](#) by the School Readiness Board by  
4220 November 30, 2020, on benchmarks for certain preschool programs;

4221 (b) the report described in Section [53E-3-519](#) by the state board regarding counseling  
4222 services in schools;

4223 (c) the reports described in Section [53E-3-520](#) by the state board regarding cost centers  
4224 and implementing activity based costing;

4225 (d) if required, the report described in Section [53E-4-309](#) by the state board explaining  
4226 the reasons for changing the grade level specification for the administration of specific  
4227 assessments;

4228 (e) if required, the report described in Section [53E-5-210](#) by the state board of an  
4229 adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

4230 (f) the report described in Section 53E-10-702 by Utah Leading through Effective,  
4231 Actionable, and Dynamic Education;

4232 (g) the report described in Section 53F-2-502 by the state board on the program  
4233 evaluation of the dual language immersion program;

4234 (h) if required, the report described in Section 53F-2-513 by the state board evaluating  
4235 the effects of salary bonuses on the recruitment and retention of effective teachers in high  
4236 poverty schools;

4237 (i) upon request, the report described in Section 53F-5-207 by the state board on the  
4238 Intergenerational Poverty Intervention Grants Program;

4239 (j) the report described in Section 53F-5-210 by the state board on the Educational  
4240 Improvement Opportunities Outside of the Regular School Day Grant Program;

4241 (k) the reports described in Section 53G-11-304 by the state board regarding proposed  
4242 rules and results related to educator exit surveys;

4243 (l) upon request, the report described in Section 53G-11-505 by the state board on  
4244 progress in implementing employee evaluations;

4245 (m) the report described in Section 62A-15-117 by the Division of Substance Abuse  
4246 and Mental Health, the State Board of Education, and the Department of Health regarding  
4247 recommendations related to Medicaid reimbursement for school-based health services; and

4248 (n) the reports described in Section 63C-19-202 by the Higher Education Strategic  
4249 Planning Commission.

4250 (3) In accordance with Section 53B-7-705, the Education Interim Committee shall  
4251 complete the review of the implementation of performance funding.

4252 Section 65. Section 53E-1-202 is amended to read:

4253 **53E-1-202. Reports to and action required of the Public Education**

4254 **Appropriations Subcommittee.**

4255 (1) In accordance with applicable provisions and Section 68-3-14, the following  
4256 recurring reports are due to the Public Education Appropriations Subcommittee:

4257 (a) the State Superintendent's Annual Report by the state board described in Section



4258 [53E-1-203](#);

4259 (b) the report described in Section [53E-10-703](#) by the Utah Leading through Effective,  
4260 Actionable, and Dynamic Education director on research and other activities; and

4261 (c) the report by the STEM Action Center Board described in Section [~~63N-12-208~~]  
4262 [9-20-109](#), including the information described in Section [~~63N-12-213~~] [9-20-113](#) on the status  
4263 of the computer science initiative.

4264 (2) (a) The one-time report by the state board regarding cost centers and implementing  
4265 activity based costing is due to the Public Education Appropriations Subcommittee in  
4266 accordance with Section [53E-3-520](#).

4267 (b) The occasional report, described in Section [53F-2-502](#) by the state board on the  
4268 program evaluation of the dual language immersion program, is due to the Public Education  
4269 Appropriations Subcommittee and in accordance with Section [68-3-14](#).

4270 (3) In accordance with applicable provisions, the Public Education Appropriations  
4271 Subcommittee shall complete the following:

4272 (a) the evaluation described in Section [53F-2-410](#) of funding for at-risk students;

4273 (b) the reviews of related to basic school programs as described in Section [53F-2-414](#);  
4274 and

4275 (c) if required, the study described in Section [53F-4-304](#) of scholarship payments.

4276 Section 66. Section [53E-7-204](#) is amended to read:

4277 **[53E-7-204. State board special education authority and duties -- Rulemaking.](#)**

4278 (1) The state board shall have general control and supervision over all public  
4279 educational programs in the state for students who are eligible for special education services.

4280 (2) A program described in Subsection (1) shall comply with state board rule.

4281 (3) In accordance with federal [~~law, state law, and Title 63G, Chapter 3, Utah~~  
4282 ~~Administrative Rulemaking Act~~] and state law, the state board shall make rules to implement  
4283 this part, including provisions that ensure:

4284 (a) appropriate and timely identification of a potential eligible student;

4285 (b) the evaluation and classification of an eligible student by qualified personnel;

- 4286 (c) standards for special education services and supports;
  - 4287 (d) availability of LEA special education programs;
  - 4288 (e) delivery of special education service responsibilities;
  - 4289 (f) certification and qualification for the instructional staff of eligible students; and
  - 4290 (g) special education services for eligible students who are dual enrollment students
- 4291 attending public school on a part-time basis as described in Section [53G-6-702](#).

4292 (4) In accordance with federal [~~law, state law, and Title 63G, Chapter 3, Utah~~  
4293 ~~Administrative Rulemaking Act~~] and state law, the state board may make rules to otherwise  
4294 administer the state board's authority described in Subsection (1).

4295 Section 67. Section **53E-7-208** is amended to read:

4296 **53E-7-208. Special education dispute resolution -- Rulemaking -- Due process**  
4297 **hearing -- Right to appeal.**

4298 (1) In accordance with [~~Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~  
4299 ~~and~~] this section, the state board shall make rules that:

4300 (a) allow for a prompt, fair, and final resolution of a dispute that arises over the  
4301 provision of special education services to an eligible student;

4302 (b) establish and maintain procedural safeguards that meet the requirements of 20  
4303 U.S.C. Sec. 1415; and

4304 (c) establish timelines that provide adequate time to address and resolve a dispute  
4305 described in Subsection (1)(a) without unnecessarily disrupting or delaying an eligible student's  
4306 free appropriate public education.

4307 (2) A party to a dispute described in Subsection (1)(a), including an LEA, shall make a  
4308 diligent and good faith effort to resolve the dispute informally at the LEA level before seeking  
4309 a due process hearing under state board rule.

4310 (3) (a) If a dispute is not resolved informally as described in Subsection (2), a party to  
4311 the dispute may request a due process hearing in accordance with state board rule.

4312 (b) Upon request of a party to a dispute described in Subsection (2), the state board  
4313 shall, in accordance with state board rule and 20 U.S.C. Sec. 1415:

4314 (i) conduct a due process hearing; and  
4315 (ii) issue a decision on the due process hearing.  
4316 (4) (a) A party to a due process hearing may appeal the decision resulting from the due  
4317 process hearing by filing a civil action with a court described in 20 U.S.C. Sec. 1415(i), if the  
4318 party files the action within 30 days after the day on which the due process hearing decision  
4319 was issued.

4320 (b) If parties to a due process hearing fail to reach agreement on the payment of  
4321 attorney fees for the due process hearing, a party may seek to recover attorney fees in  
4322 accordance with 20 U.S.C. Sec. 1415(i) by filing a court action within 30 days after the day on  
4323 which the due process hearing decision was issued.

4324 Section 68. Section **53E-8-403** is amended to read:

4325 **53E-8-403. Educational programs.**

4326 (1) The Utah Schools for the Deaf and the Blind shall provide an educational program  
4327 for a student:

4328 (a) based on assessments of the student's abilities; and

4329 (b) in accordance with the student's IEP or Section 504 accommodation plan.

4330 (2) If a student's ability to access the core curriculum is impaired primarily due to a  
4331 severe sensory loss and requires intensive sensory-based instruction or services, the Utah  
4332 Schools for the Deaf and the Blind shall provide an educational program that will enable the  
4333 student, with accommodations, to access the core curriculum.

4334 (3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to  
4335 students who are blind [~~as required by Chapter 7, Part 3, Braille Requirements for Blind~~  
4336 ~~Students~~].

4337 Section 69. Section **53F-2-504** is amended to read:

4338 **53F-2-504. Teacher Salary Supplement Program.**

4339 (1) As used in this section:

4340 (a) "Eligible teacher" means a teacher who:

4341 (i) has a qualifying educational background or qualifying teaching background;

4342 (ii) has a supplement-approved assignment that corresponds to the teacher's qualifying  
4343 educational background or qualifying teaching background;

4344 (iii) qualifies for the teacher's supplement-approved assignment in accordance with  
4345 state board rule; and

4346 (iv) is a new employee or received at least a satisfactory rating on the teacher's most  
4347 recent evaluation.

4348 (b) "Field of computer science" means:

4349 (i) computer science; or

4350 (ii) computer information technology.

4351 (c) "Field of science" means:

4352 (i) integrated science;

4353 (ii) chemistry;

4354 (iii) physics;

4355 (iv) physical science; or

4356 (v) general science.

4357 [~~(d) "License" means the same as that term is defined in Section 53E-6-102.~~]

4358 [~~(e)~~] (d) "Qualifying educational background" means:

4359 (i) for a teacher who is assigned a secondary school level mathematics course:

4360 (A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

4361 (B) a bachelor's degree major, master's degree, or doctoral degree that has course  
4362 requirements that are substantially equivalent to the course requirements for a bachelor's degree  
4363 major, master's degree, or doctoral degree in mathematics;

4364 (ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry  
4365 course, or physics course:

4366 (A) a bachelor's degree major, master's degree, or doctoral degree in a field of science;

4367 or

4368 (B) a bachelor's degree major, master's degree, or doctoral degree that has course  
4369 requirements that are substantially equivalent to the course requirements of those required for a

- 4370 bachelor's degree major, master's degree, or doctoral degree in a field of science;
- 4371 (iii) for a teacher who is assigned a computer science course:
- 4372 (A) a bachelor's degree major, master's degree, or doctoral degree in a field of
- 4373 computer science; or
- 4374 (B) a bachelor's degree major, master's degree, or doctoral degree that has course
- 4375 requirements that are substantially equivalent to the course requirements of those required for a
- 4376 bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or
- 4377 (iv) for a teacher who is assigned to teach special education, a bachelor's degree major,
- 4378 master's degree, or doctoral degree in special education.
- 4379 ~~[(f)]~~ (e) "Qualifying teaching background" means the teacher has been teaching the
- 4380 same supplement-approved assignment in Utah public schools for at least 10 years.
- 4381 ~~[(g)]~~ (f) "Supplement-approved assignment" means an assignment to teach:
- 4382 (i) a secondary school level mathematics course;
- 4383 (ii) integrated science in grade 7 or 8;
- 4384 (iii) chemistry;
- 4385 (iv) physics;
- 4386 (v) computer science; or
- 4387 (vi) special education.
- 4388 (2) (a) Subject to future budget constraints, the Legislature shall:
- 4389 (i) annually appropriate money to the Teacher Salary Supplement Program to maintain
- 4390 annual salary supplements for eligible teachers provided in previous years; and
- 4391 (ii) provide salary supplements to new recipients.
- 4392 (b) Money appropriated for the Teacher Salary Supplement Program shall include
- 4393 money for the following employer-paid benefits:
- 4394 (i) retirement;
- 4395 (ii) workers' compensation;
- 4396 (iii) Social Security; and
- 4397 (iv) Medicare.

4398           (3) (a) The annual salary supplement for an eligible teacher who is assigned full-time  
4399 to a supplement-approved assignment is \$4,100 and funded through an appropriation described  
4400 in Subsection (2).

4401           (b) An eligible teacher who is assigned part-time to a supplement-approved assignment  
4402 shall receive a partial salary supplement based on the number of hours worked in the  
4403 supplement-approved assignment.

4404           (4) The state board shall:

4405           (a) create an online application system for a teacher to apply to receive a salary  
4406 supplement through the Teacher Salary Supplement Program;

4407           (b) determine if a teacher is an eligible teacher;

4408           (c) verify, as needed, the determinations made under Subsection (4)(b) with school  
4409 district and school administrators; and

4410           (d) certify a list of eligible teachers.

4411           (5) (a) An eligible teacher shall apply to the state board before the conclusion of a  
4412 school year to receive the salary supplement authorized in this section.

4413           (b) An eligible teacher may apply to the state board, after verification that the  
4414 requirements under this section have been satisfied, to receive a salary supplement after the  
4415 completion of:

4416           (i) the school year as an annual award; or

4417           (ii) a semester or trimester as a partial award based on the portion of the school year  
4418 that has been completed.

4419           (6) (a) The state board shall establish and administer an appeal process for a teacher to  
4420 follow if the teacher applies for a salary supplement and does not receive a salary supplement  
4421 under Subsection (8).

4422           (b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to  
4423 appeal eligibility as an eligible teacher with a qualifying educational background on the basis  
4424 that the teacher has a degree or degree major with course requirements that are substantially  
4425 equivalent to the qualifying educational background associated with the teacher's

4426 supplement-approved assignment.

4427 (ii) A teacher shall provide transcripts and other documentation to the state board in  
4428 order for the state board to determine if the teacher has a degree or degree major with course  
4429 requirements that are substantially equivalent to the qualifying educational background  
4430 associated with the teacher's supplement-approved assignment.

4431 (c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to  
4432 appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that  
4433 the teacher has a qualifying teaching background.

4434 (ii) The teacher shall provide to the state board evidence to verify that the teacher has a  
4435 qualifying teaching background.

4436 (7) (a) The state board shall distribute money appropriated to the Teacher Salary  
4437 Supplement Program to school districts and charter schools for the Teacher Salary Supplement  
4438 Program in accordance with the provisions of this section.

4439 (b) The state board shall include the employer-paid benefits described under  
4440 Subsection (2)(b) in the amount of each salary supplement.

4441 (c) The employer-paid benefits described under Subsection (2)(b) are an addition to the  
4442 salary supplement limits described under Subsection (3).

4443 (8) (a) Money received from the Teacher Salary Supplement Program shall be used by  
4444 a school district or charter school to provide a salary supplement equal to the amount specified  
4445 in Subsection (3) for each eligible teacher.

4446 (b) The salary supplement is part of an eligible teacher's base pay, subject to eligible  
4447 teacher's qualification as an eligible teacher every year, semester, or trimester.

4448 (9) Notwithstanding the provisions of this section, if the appropriation for the program  
4449 is insufficient to cover the costs associated with salary supplements, the state board shall  
4450 distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

4451 Section 70. Section **53F-5-202** is amended to read:

4452 **53F-5-202. National Board certification reimbursement.**

4453 (1) (a) The terms defined in Section **53E-6-102** apply to this section.

4454 (b) As used in this section, "eligible educator" means an educator who is employed as  
4455 an educator by an LEA.

4456 (2) (a) Subject to legislative appropriations and Subsection (2)(b), the state board shall  
4457 reimburse an eligible educator for a cost incurred by the eligible educator to attain or renew a  
4458 National Board certification.

4459 (b) The state board may only issue a reimbursement under Subsection (2)(a) for:

4460 (i) a National Board certification attained or renewed after July 1, 2016, and before  
4461 July 1, 2019; or

4462 (ii) a cost incurred by an eligible teacher to attain or renew a National Board  
4463 certification after July 1, 2016, and before July 1, 2019.

4464 (3) Subject to legislative appropriations, and in accordance with this section, beginning  
4465 July 1, 2019, the state board may pay up to the total cost:

4466 (a) for an eligible educator who does not have a National Board certification to pursue  
4467 a National Board certification; or

4468 (b) for an eligible educator who has a National Board certification, to renew the  
4469 National Board certification.

4470 (4) An eligible educator who does not have a National Board certification and intends  
4471 for the state board to pay for the eligible educator to pursue a National Board certification shall:

4472 (a) submit to the state board:

4473 (i) an application;

4474 (ii) a letter of recommendation from the principal of the eligible educator's school; and

4475 (iii) a plan for completing the requirements for a National Board certification within  
4476 three years of the state board approving the eligible educator's application; and

4477 (b) pay a registration fee directly to the organization that administers National Board  
4478 certification.

4479 (5) An eligible educator who intends for the state board to pay to renew the eligible  
4480 educator's National Board certification shall submit an application to the state board.

4481 (6) The state board may not:



4482 (a) pay for an eligible educator to attempt to earn National Board certification over a  
4483 period of longer than three years; or

4484 (b) pay for an individual to attempt National Board certification or a component of  
4485 National Board certification more than once.

4486 (7) The state board shall make rules specifying procedures and timelines for:

4487 (a) reimbursing costs under Subsection (2); and

4488 (b) paying costs for an eligible educator to pursue or renew a National Board  
4489 certification under Subsection (3).

4490 Section 71. Section **53F-5-212** is amended to read:

4491 **53F-5-212. Grants for additional educators for high-need schools.**

4492 (1) As used in this section:

4493 (a) "Educator" means an individual who holds a professional educator license  
4494 described in Section [53E-6-201](#).

4495 (b) "First-year educator" means an educator who is:

4496 (i) a classroom teacher; and

4497 (ii) in the educator's first year of teaching.

4498 (c) "High-need school" means an elementary school in an LEA that qualifies for a grant  
4499 under this section based on the criteria established by the state board under Subsection  
4500 (5)(a)(ii).

4501 (d) "Local education agency" or "LEA" means a school district or charter school.

4502 (e) "Title I school" means a school that receives funds under Title I of the Elementary  
4503 and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

4504 (2) Subject to legislative appropriations, and in accordance with this section, the state  
4505 board shall award a grant to an LEA to fund the salary and benefits for an additional first-year  
4506 educator to teach in a high-need school.

4507 (3) The state board shall:

4508 (a) solicit proposals from LEAs to receive a grant under this section; and

4509 (b) award grants to LEAs on a competitive basis based on the LEA applications

4510 described in Subsection (4)(a).

4511 (4) To receive a grant under this section, an LEA shall:

4512 (a) submit an application to the state board that:

4513 (i) lists the school or schools for which the LEA intends to use a grant;

4514 (ii) describes how each school for which the LEA intends to use a grant meets the  
4515 criteria for being a high-need school; and

4516 (iii) includes any other information required by the state board under the rules  
4517 described in Subsection (5); and

4518 (b) provide matching funds in an amount equal to the grant received by the LEA under  
4519 this section.

4520 (5) (a) The state board shall make rules specifying:

4521 (i) the procedure for an LEA to apply for a grant under this section, including  
4522 application requirements; and

4523 (ii) the criteria for determining if an elementary school is a high-need school.

4524 (b) In establishing the criteria described in Subsection (5)(a)(ii), the state board shall  
4525 consider the following factors:

4526 (i) Title I school status;

4527 (ii) low school performance, as indicated by the school accountability system described  
4528 in Title 53E, Chapter 5, Part 2, School Accountability System;

4529 (iii) a high percentage of students enrolled in the school who are either experiencing or  
4530 at risk of experiencing intergenerational poverty;

4531 (iv) a high ratio of students to educators in the school;

4532 (v) higher than average educator turnover in the school;

4533 (vi) a high percentage of students enrolled in the school who are experiencing  
4534 homelessness; and

4535 (vii) other factors determined by the state board.

4536 (6) An LEA that receives a grant under this section shall:

4537 (a) (i) use the grant to fund a portion of the cost of the salary and benefits for an

4538 additional first-year educator who teaches in a high-need school; and

4539 (ii) maintain a class size of fewer than 20 students for a first-year educator whose  
4540 salary and benefits are funded by the grant; and

4541 (b) annually submit a report to the state board describing:

4542 (i) how the LEA used the grant; and

4543 (ii) whether the grant was effective in maintaining a smaller class size for the first-year  
4544 educator whose salary and benefits were funded by the grant.

4545 Section 72. Section **53F-9-201** is amended to read:

4546 **53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.**

4547 (1) As used in this section:

4548 (a) "Annual distribution calculation" means, for a given fiscal year, the average of:

4549 (i) 4% of the average market value of the State School Fund for that fiscal year; and

4550 (ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

4551 (A) one;

4552 (B) the percent change in student enrollment from the school year two years prior to  
4553 the prior school year; and

4554 (C) the actual total percent change of the consumer price index during the last 12  
4555 months as measured in June of the prior fiscal year.

4556 (b) "Average market value of the State School Fund" means the results of a calculation  
4557 completed by the SITFO director each fiscal year that averages the value of the State School  
4558 Fund for the past 12 consecutive quarters ending in the prior fiscal year.

4559 (c) "Consumer price index" means the Consumer Price Index for All Urban  
4560 Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of  
4561 the United States Department of Labor.

4562 (d) "SITFO director" means the director of the School and Institutional Trust Fund  
4563 Office appointed under Section [53D-1-401](#).

4564 (e) "State School Fund investment earnings distribution amount" or "distribution  
4565 amount" means, for a fiscal year, the lesser of:

- 4566 (i) the annual distribution calculation; or
- 4567 (ii) 4% of the average market value of the State School Fund.
- 4568 (2) The Uniform School Fund, a special revenue fund within the Education Fund,
- 4569 established by Utah Constitution, Article X, Section 5, consists of:
- 4570 (a) distributions derived from the investment of money in the permanent State School
- 4571 Fund established by Utah Constitution, Article X, Section 5;
- 4572 (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform
- 4573 Unclaimed Property Act; and
- 4574 (c) all other constitutional or legislative allocations to the fund, including revenues
- 4575 received by donation.
- 4576 (3) (a) There is created within the Uniform School Fund a restricted account known as
- 4577 the Trust Distribution Account.
- 4578 (b) The Trust Distribution Account consists of:
- 4579 (i) in accordance with Subsection (4), quarterly deposits of the State School Fund
- 4580 investment earnings distribution amount from the prior fiscal year;
- 4581 (ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and
- 4582 (iii) any unused appropriation for the administration of the School LAND Trust
- 4583 Program, as described in Subsection [53F-2-404\(1\)\(c\)](#).
- 4584 (4) If, at the end of a fiscal year, the Trust Distribution Account has a balance
- 4585 remaining after subtracting the appropriation amount described in Subsection [53F-2-404\(1\)\(a\)](#)
- 4586 for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount
- 4587 of the remaining balance from the prior fiscal year toward the current fiscal year's distribution
- 4588 amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the
- 4589 remaining balance from the prior fiscal year.
- 4590 (5) On or before October 1 of each year, the SITFO director shall:
- 4591 (a) in accordance with this section, determine the distribution amount for the following
- 4592 fiscal year; and
- 4593 (b) report the amount described in Subsection (5)(a) as the funding amount, described

4594 in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

4595 (i) the State Treasurer;

4596 (ii) the Legislative Fiscal Analyst;

4597 (iii) the Division of Finance;

4598 (iv) the director of the Land Trusts Protection and Advocacy Office, appointed under

4599 Section 53D-2-203;

4600 (v) the School and Institutional Trust Lands Administration created in Section

4601 53C-1-201;

4602 (vi) the [~~State Board of Education~~] state board; and

4603 (vii) the Governor's Office of Management and Budget.

4604 (6) The School and Institutional Trust Fund Board of Trustees created in Section

4605 53D-1-301 shall:

4606 (a) annually review the distribution amount; and

4607 (b) make recommendations, if necessary, to the Legislature for changes to the formula

4608 for calculating the distribution amount.

4609 (7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust

4610 Distribution Account funds for the School LAND Trust Program as described in Subsections

4611 53F-2-404(1)(a) and (c).

4612 Section 73. Section 53G-7-306 is amended to read:

4613 **53G-7-306. School district interfund transfers.**

4614 (1) A school district shall spend revenues only within the fund for which they were

4615 originally authorized, levied, collected, or appropriated.

4616 (2) Except as otherwise provided in this section, school district interfund transfers of

4617 residual equity are prohibited.

4618 (3) The state board may authorize school district interfund transfers of residual equity

4619 when a district states its intent to create a new fund or expand, contract, or liquidate an existing

4620 fund.

4621 (4) The state board may also authorize school district interfund transfers of residual

4622 equity for a financially distressed district if the state board determines the following:

4623 (a) the district has a significant deficit in its maintenance and operations fund caused  
4624 by circumstances not subject to the administrative decisions of the district;

4625 (b) the deficit cannot be reasonably reduced under Section 53G-7-305; and

4626 (c) without the transfer, the school district will not be capable of meeting statewide  
4627 educational standards adopted by the state board.

4628 (5) The state board shall develop in rule standards for defining and aiding financially  
4629 distressed school districts under this section.

4630 (6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded  
4631 and reported in the debt service fund.

4632 (b) Debt service levies under Subsection 59-2-924(5)(c) that are not subject to the  
4633 public hearing provisions of Section 59-2-919 may not be used for any purpose other than  
4634 retiring general obligation debt.

4635 (c) Amounts from these levies remaining in the debt service fund at the end of a fiscal  
4636 year shall be used in subsequent years for general obligation debt retirement.

4637 (d) Any amounts left in the debt service fund after all general obligation debt has been  
4638 retired may be transferred to the capital projects fund upon completion of the budgetary hearing  
4639 process required under Section 53G-7-303.

4640 Section 74. Section 53G-7-903 is amended to read:

4641 **53G-7-903. Interns -- Workers' compensation medical benefits.**

4642 (1) An intern participating in an internship under Section 53G-7-902 is considered to  
4643 be a volunteer government worker of the sponsoring public school, or an employee of the  
4644 sponsoring private school, solely for purposes of receiving workers' compensation medical  
4645 benefits.

4646 (2) Receipt of medical benefits under Subsection (1) shall be the exclusive remedy  
4647 against the school and the cooperating employer for all injuries and occupational diseases as  
4648 provided under Title 34A, [~~Chapters~~] Chapter 2, Workers' Compensation Act, and Chapter 3,  
4649 Utah Occupational Disease Act.

4650 Section 75. Section **53G-8-402** is amended to read:

4651 **53G-8-402. Notification by juvenile court and law enforcement agencies.**

4652 (1) Notifications received from the juvenile court or law enforcement agencies by the  
4653 school district pursuant to Subsections **78A-6-112(3)(b)** and **78A-6-117(1)(~~b~~)(c)** are governed  
4654 by this part.

4655 (2) School districts may enter into agreements with law enforcement agencies for  
4656 notification under Subsection (1).

4657 Section 76. Section **53G-8-405** is amended to read:

4658 **53G-8-405. Liability for release of information.**

4659 (1) The district superintendent, principal, and any staff member notified by the  
4660 principal may not be held liable for information which may become public knowledge unless it  
4661 can be shown by clear and convincing evidence that the information became public knowledge  
4662 through an intentional act of the superintendent, principal, or a staff member.

4663 (2) A person receiving information under Subsection **78A-6-112(3)(b)** or  
4664 **78A-6-117(1)(~~b~~)(c)**, or Section **53G-8-403** is immune from any liability, civil or criminal, for  
4665 acting or failing to act in response to the information unless the person acts or fails to act due to  
4666 malice, gross negligence, or deliberate indifference to the consequences.

4667 Section 77. Section **53G-9-208** is amended to read:

4668 **53G-9-208. Sunscreen -- Possession -- Administration -- Immunity.**

4669 (1) As used in this section, "sunscreen" means a compound topically applied to prevent  
4670 sunburn.

4671 (2) A public school shall permit a student, without a parent's, physician's, or physician  
4672 assistant's authorization, to possess or self-apply sunscreen that is regulated by the Food and  
4673 Drug Administration.

4674 (3) If a student is unable to self-apply sunscreen, a volunteer school employee may  
4675 apply the sunscreen on the student if the student's parent provides written consent for the  
4676 assistance.

4677 (4) A volunteer school employee who applies sunscreen on a student in compliance

4678 with Subsection (3) and the volunteer school employee's employer are not liable for:

4679 (a) an adverse reaction suffered by the student as a result of having the sunscreen  
4680 applied; or

4681 (b) discontinuing the application of the sunscreen at any time.

4682 Section 78. Section **53G-10-402** is amended to read:

4683 **53G-10-402. Instruction in health -- Parental consent requirements -- Conduct**  
4684 **and speech of school employees and volunteers -- Political and religious doctrine**  
4685 **prohibited.**

4686 (1) As used in this section:

4687 (a) "LEA governing board" means a local school board or charter school governing  
4688 board.

4689 (b) "Refusal skills" means instruction:

4690 (i) in a student's ability to clearly and expressly refuse sexual advances by a minor or  
4691 adult;

4692 (ii) in a student's obligation to stop the student's sexual advances if refused by another  
4693 individual;

4694 (iii) informing a student of the student's right to report and seek counseling for  
4695 unwanted sexual advances;

4696 (iv) in sexual harassment; and

4697 (v) informing a student that a student may not consent to criminally prohibited  
4698 activities or activities for which the student is legally prohibited from giving consent, including  
4699 the electronic transmission of sexually explicit images by an individual of the individual or  
4700 another.

4701 (2) (a) The state board shall establish curriculum requirements under Section  
4702 **53E-3-501** that include instruction in:

4703 (i) community and personal health;

4704 (ii) physiology;

4705 (iii) personal hygiene;



- 4706 (iv) prevention of communicable disease;
- 4707 (v) refusal skills; and
- 4708 (vi) the harmful effects of pornography.
- 4709 (b) The state board shall make rules that, and instruction shall:
  - 4710 (i) stress the importance of abstinence from all sexual activity before marriage and
  - 4711 fidelity after marriage as methods for preventing certain communicable diseases;
  - 4712 (ii) stress personal skills that encourage individual choice of abstinence and fidelity;
  - 4713 (iii) prohibit instruction in:
    - 4714 (A) the intricacies of intercourse, sexual stimulation, or erotic behavior;
    - 4715 (B) the advocacy of premarital or extramarital sexual activity; or
    - 4716 (C) the advocacy or encouragement of the use of contraceptive methods or devices; and
    - 4717 (iv) except as provided in Subsection (2)(d), allow instruction to include information
    - 4718 about contraceptive methods or devices that stresses effectiveness, limitations, risks, and
    - 4719 information on state law applicable to minors obtaining contraceptive methods or devices.
  - 4720 (c) The state board shall make rules for an LEA governing board that adopts
  - 4721 instructional materials under Subsection (2)(g)(ii) that:
    - 4722 (i) require the LEA governing board to report on the materials selected and the LEA
    - 4723 governing board's compliance with Subsection (2)(h); and
    - 4724 (ii) provide for an appeal and review process of the LEA governing board's adoption of
    - 4725 instructional materials.
  - 4726 (d) The state board may not require an LEA to teach or adopt instructional materials
  - 4727 that include information on contraceptive methods or devices.
  - 4728 (e) (i) At no time may instruction be provided, including responses to spontaneous
  - 4729 questions raised by students, regarding any means or methods that facilitate or encourage the
  - 4730 violation of any state or federal criminal law by a minor or an adult.
  - 4731 (ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a
  - 4732 spontaneous question as long as the response is consistent with the provisions of this section.
  - 4733 (f) The state board shall recommend instructional materials for use in the curricula

4734 required under Subsection (2)(a) after considering evaluations of instructional materials by the  
4735 State Instructional Materials Commission.

4736 (g) An LEA governing board may choose to adopt:

4737 (i) the instructional materials recommended under Subsection (2)(f); or

4738 (ii) other instructional materials in accordance with Subsection (2)(h).

4739 (h) An LEA governing board that adopts instructional materials under Subsection  
4740 (2)(g)(ii) shall:

4741 (i) ensure that the materials comply with state law and board rules;

4742 (ii) base the adoption of the materials on the recommendations of the LEA governing  
4743 board's Curriculum Materials Review Committee; and

4744 (iii) adopt the instructional materials in an open and regular meeting of the LEA  
4745 governing board for which prior notice is given to parents of students attending the respective  
4746 schools and an opportunity for parents to express their views and opinions on the materials at  
4747 the meeting.

4748 (3) (a) A student shall receive instruction in the courses described in Subsection (2) on  
4749 at least two occasions during the period that begins with the beginning of grade 8 and the end  
4750 of grade 12.

4751 (b) At the request of the state board, the Department of Health shall cooperate with the  
4752 state board in developing programs to provide instruction in those areas.

4753 (4) (a) The state board shall adopt rules that:

4754 (i) provide that the parental consent requirements of Sections [76-7-322](#) and [76-7-323](#)  
4755 are complied with; and

4756 (ii) require a student's parent to be notified in advance and have an opportunity to  
4757 review the information for which parental consent is required under Sections [76-7-322](#) and  
4758 [76-7-323](#).

4759 (b) The state board shall also provide procedures for disciplinary action for violation of  
4760 Section [76-7-322](#) or [76-7-323](#).

4761 (5) (a) In keeping with the requirements of Section [53G-10-204](#), and because school

4762 employees and volunteers serve as examples to their students, school employees or volunteers  
4763 acting in their official capacities may not support or encourage criminal conduct by students,  
4764 teachers, or volunteers.

4765 (b) To ensure the effective performance of school personnel, the limitations described  
4766 in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school  
4767 employee's or volunteer's official capacities if:

4768 (i) the employee or volunteer knew or should have known that the employee's or  
4769 volunteer's action could result in a material and substantial interference or disruption in the  
4770 normal activities of the school; and

4771 (ii) that action does result in a material and substantial interference or disruption in the  
4772 normal activities of the school.

4773 (c) The state board or an LEA governing board may not allow training of school  
4774 employees or volunteers that supports or encourages criminal conduct.

4775 (d) The state board shall adopt rules implementing this section.

4776 (e) Nothing in this section limits the ability or authority of the state board or an LEA  
4777 governing board to enact and enforce rules or take actions that are otherwise lawful, regarding  
4778 educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

4779 (6) Except as provided in Section [53G-10-202](#), political, atheistic, sectarian, religious,  
4780 or denominational doctrine may not be taught in the public schools.

4781 (7) (a) An LEA governing board and an LEA governing board's employees shall  
4782 cooperate and share responsibility in carrying out the purposes of this chapter.

4783 (b) An LEA governing board shall provide appropriate professional development for  
4784 the LEA governing board's teachers, counselors, and school administrators to enable them to  
4785 understand, protect, and properly instruct students in the values and character traits referred to  
4786 in this section and Sections [53E-9-202](#), [53E-9-203](#), [53G-10-202](#), [53G-10-203](#), [53G-10-204](#),  
4787 and [53G-10-205](#), and distribute appropriate written materials on the values, character traits, and  
4788 conduct to each individual receiving the professional development.

4789 (c) An LEA governing board shall make the written materials described in Subsection

4790 (7)(b) available to classified employees, students, and parents of students.

4791 (d) In order to assist an LEA governing board in providing the professional  
4792 development required under Subsection (7)(b), the state board shall, as appropriate, contract  
4793 with a qualified individual or entity possessing expertise in the areas referred to in Subsection  
4794 (7)(b) to develop and disseminate model teacher professional development programs that an  
4795 LEA governing board may use to train the individuals referred to in Subsection (7)(b) to  
4796 effectively teach the values and qualities of character referenced in Subsection (7).

4797 (e) In accordance with the provisions of Subsection (5)(c), professional development  
4798 may not support or encourage criminal conduct.

4799 (8) An LEA governing board shall review every two years:

4800 (a) LEA governing board policies on instruction described in this section;

4801 (b) for a local school board [~~of a school district~~], data for each county that the school  
4802 district is located in, or, for a charter school governing board, data for the county in which the  
4803 charter school is located, on the following:

4804 (i) teen pregnancy;

4805 (ii) child sexual abuse; and

4806 (iii) sexually transmitted diseases and sexually transmitted infections; and

4807 (c) the number of pornography complaints or other instances reported within the  
4808 jurisdiction of the LEA governing board.

4809 (9) If any one or more provision, subsection, sentence, clause, phrase, or word of this  
4810 section, or the application thereof to any person or circumstance, is found to be  
4811 unconstitutional, the balance of this section shall be given effect without the invalid provision,  
4812 subsection, sentence, clause, phrase, or word.

4813 Section 79. Section **53G-11-501** is amended to read:

4814 **53G-11-501. Definitions.**

4815 As used in this part:

4816 (1) "Administrator" means an individual who supervises educators and holds an  
4817 appropriate license issued by the state board.

4818 (2) "Career educator" means a licensed employee who has a reasonable expectation of  
4819 continued employment under the policies of a local school board.

4820 (3) "Career employee" means an employee of a school district who has obtained a  
4821 reasonable expectation of continued employment based upon Section 53G-11-503 and an  
4822 agreement with the employee or the employee's association, district practice, or policy.

4823 (4) "Contract term" or "term of employment" means the period of time during which an  
4824 employee is engaged by the school district under a contract of employment, whether oral or  
4825 written.

4826 (5) "Dismissal" or "termination" means:

4827 (a) termination of the status of employment of an employee;

4828 (b) failure to renew or continue the employment contract of a career employee beyond  
4829 the then-current school year;

4830 (c) reduction in salary of an employee not generally applied to all employees of the  
4831 same category employed by the school district during the employee's contract term; or

4832 (d) change of assignment of an employee with an accompanying reduction in pay,  
4833 unless the assignment change and salary reduction are agreed to in writing.

4834 (6) "Educator" means an individual employed by a school district who is required to  
4835 hold a professional license issued by the state board, except:

4836 (a) a superintendent; or

4837 (b) an individual who works less than three hours per day or is hired for less than half  
4838 of a school year.

4839 (7) (a) "Employee" means a career or provisional employee of a school district, except  
4840 as provided in Subsection (7)(b).

4841 (b) Excluding Section 53G-11-518, for purposes of this part, "employee" does not  
4842 include:

4843 (i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the  
4844 Blind;

4845 (ii) a district business administrator or the equivalent at the Utah Schools for the Deaf

4846 and the Blind; or

4847 (iii) a temporary employee.

4848 (8) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates  
4849 the termination of an employee who started to work for a district most recently before  
4850 terminating a more senior employee.

4851 (9) "Provisional educator" means an educator employed by a school district who has  
4852 not achieved status as a career educator within the school district.

4853 (10) "Provisional employee" means an individual, other than a career employee or a  
4854 temporary employee, who is employed by a school district.

4855 (11) "School board" [~~or "board"~~] means a local school board or, for the Utah Schools  
4856 for the Deaf and the Blind, the state board.

4857 (12) "School district" or "district" means:

4858 (a) a public school district; or

4859 (b) the Utah Schools for the Deaf and the Blind.

4860 (13) "Summative evaluation" means the annual evaluation that summarizes an  
4861 educator's performance during a school year and that is used to make decisions related to the  
4862 educator's employment.

4863 (14) "Temporary employee" means an individual who is employed on a temporary  
4864 basis as defined by policies adopted by the school board. If the class of employees in question  
4865 is represented by an employee organization recognized by the school board, the school board  
4866 shall adopt the school board's policies based upon an agreement with that organization.  
4867 Temporary employees serve at will and have no expectation of continued employment.

4868 (15) (a) "Unsatisfactory performance" means a deficiency in performing work tasks  
4869 that may be:

4870 (i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and

4871 (ii) remediated through training, study, mentoring, or practice.

4872 (b) "Unsatisfactory performance" does not include the following conduct that is  
4873 designated as a cause for termination under Section [53G-11-512](#) or a reason for license

4874 discipline by the state board or Utah Professional Practices Advisory Commission:

4875 (i) a violation of work policies;

4876 (ii) a violation of school board policies, state board rules, or law;

4877 (iii) a violation of standards of ethical, moral, or professional conduct; or

4878 (iv) insubordination.

4879 Section 80. Section **58-1-501.7** is amended to read:

4880 **58-1-501.7. Standards of conduct for prescription drug education -- Academic**  
4881 **and commercial detailing.**

4882 (1) For purposes of this section:

4883 (a) "Academic detailing":

4884 (i) means a health care provider who is licensed under this title to prescribe or dispense  
4885 a prescription drug and employed by someone other than a pharmaceutical manufacturer:

4886 (A) for the purpose of countering information provided in commercial detailing; and

4887 (B) to disseminate educational information about prescription drugs to other health  
4888 care providers in an effort to better align clinical practice with scientific research; and

4889 (ii) does not include a health care provider who:

4890 (A) is disseminating educational information about a prescription drug as part of  
4891 teaching or supervising students or graduate medical education students at an institution of  
4892 higher education or through a medical residency program;

4893 (B) is disseminating educational information about a prescription drug to a patient or a  
4894 patient's representative; or

4895 (C) is acting within the scope of practice for the health care provider regarding the  
4896 prescribing or dispensing of a prescription drug.

4897 (b) "Commercial detailing" means an educational practice employed by a  
4898 pharmaceutical manufacturer in which clinical information and evidence about a prescription  
4899 drug is shared with health care professionals.

4900 (c) "Manufacture" is as defined in Section [58-37-2](#).

4901 (d) "Pharmaceutical manufacturer" is a person who manufactures a prescription drug.

4902 (2) (a) Except as provided in Subsection (3), the provisions of this section apply to an  
4903 academic detailer beginning July 1, 2013.

4904 (b) An academic detailer and a commercial detailer who educate another health care  
4905 provider about prescription drugs through written or oral educational material is subject to  
4906 federal regulations regarding:

- 4907 (i) false and misleading advertising in 21 C.F.R., Part 201 (2007);
- 4908 (ii) prescription drug advertising in 21 C.F.R., Part 202 (2007); and
- 4909 (iii) the federal Office of the Inspector General's Compliance Program Guidance for  
4910 Pharmaceutical Manufacturers issued in April 2003, as amended.

4911 (c) A person who is injured by a violation of this section has a private right of action  
4912 against a person engaged in academic detailing, if:

4913 (i) the actions of the person engaged in academic detailing, that are a violation of this  
4914 section, are:

- 4915 (A) the result of gross negligence by the person; or
- 4916 (B) willful and wanton behavior by the person; and
- 4917 (ii) the damages to the person are reasonable, foreseeable, and proximately caused by  
4918 the violations of this section.

4919 (3) (a) For purposes of this Subsection, "accident and health insurance":

- 4920 (i) means the same as that term is defined in Section [31A-1-301](#); and
- 4921 (ii) includes a self-funded health benefit plan and an administrator for a self-funded  
4922 health benefit plan.

4923 (b) This section does not apply to a person who engages in academic detailing if that  
4924 person is engaged in academic detailing on behalf of:

- 4925 (i) a person who provides accident and health insurance, including when the person  
4926 who provides accident and health insurance contracts with or offers:
  - 4927 (A) the state Medicaid program, including the Primary Care Network within the state's  
4928 Medicaid program;
  - 4929 (B) the Children's Health Insurance Program created in Section [26-40-103](#);



- 4930 [~~(C)~~] the state's high risk insurance program created in Section [31A-29-104](#);
- 4931 [~~(D)~~] (C) a Medicare plan; or
- 4932 [~~(E)~~] (D) a Medicare supplement plan;
- 4933 (ii) a hospital as defined in Section [26-21-2](#);
- 4934 (iii) any class of pharmacy as defined in Section [58-17b-102](#), including any affiliated
- 4935 pharmacies;
- 4936 (iv) an integrated health system as defined in Section [13-5b-102](#); or
- 4937 (v) a medical clinic.
- 4938 (c) This section does not apply to communicating or disseminating information about a
- 4939 prescription drug for the purpose of conducting research using prescription drugs at a health
- 4940 care facility as defined in Section [26-21-2](#), or a medical clinic.

4941 Section 81. Section **58-9-102** is amended to read:

4942 **58-9-102. Definitions.**

4943 In addition to the definitions in Section [58-1-102](#), as used in this chapter:

4944 (1) "Alkaline hydrolysis" means a water-based dissolution process using alkaline  
4945 chemicals, heat, and sometimes agitation or pressure that reduces human remains to a liquid  
4946 and to dry bone residue and includes the disposal of the liquid and the processing and  
4947 pulverization of the dry bone residue.

4948 (2) "Alkaline hydrolysis chamber" means the enclosed space within which the alkaline  
4949 hydrolysis process takes place and that is used exclusively for alkaline hydrolysis of human  
4950 remains.

4951 (3) "Alkaline hydrolysis container" means a container:

4952 (a) in which human remains are transported to a funeral service establishment and  
4953 placed in an alkaline hydrolysis chamber for resomation; and

4954 (b) that meets substantially all of the following standards:

4955 (i) able to be closed in order to provide a complete covering for the human remains;

4956 (ii) resistant to leakage or spillage;

4957 (iii) rigid enough for handling with ease; and

4958 (iv) able to provide protection for the health, safety, and personal integrity of crematory  
4959 personnel.

4960 (4) "Authorizing agent" means a person legally entitled to authorize the cremation or  
4961 the alkaline hydrolysis process of human remains.

4962 (5) "Beneficiary" means the individual who, at the time of the individual's death, is to  
4963 receive the benefit of the property and services purchased under a preneed funeral arrangement.

4964 (6) "Board" means the Board of Funeral Service created in Section [58-9-201](#).

4965 (7) "Body part" means:

4966 (a) a limb or other portion of the anatomy that is removed from a person or human  
4967 remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research;  
4968 or

4969 (b) a human body or any portion of a body that has been donated to science for medical  
4970 research purposes.

4971 (8) "Buyer" means a person who purchases a preneed funeral arrangement.

4972 (9) "Calcination" means a process in which a dead human body is reduced by intense  
4973 heat to a residue that is not as substantive as the residue that follows cremation.

4974 (10) "Cremated remains" means all the remains of a cremated body recovered after the  
4975 completion of the cremation process, including pulverization which leaves only bone fragments  
4976 reduced to unidentifiable dimensions and may possibly include the residue of foreign matter  
4977 including casket material, bridgework, or eyeglasses that were cremated with the human  
4978 remains.

4979 (11) "Cremation" means the technical process, using direct flame and heat, or a  
4980 chemical process, that reduces human remains to bone fragments through heat and evaporation,  
4981 or a chemical process, and includes the processing and usually the pulverization of the bone  
4982 fragments.

4983 (12) "Cremation chamber" means the enclosed space within which the cremation  
4984 process takes place and which is used exclusively for the cremation of human remains.

4985 (13) "Cremation container" means the container:

4986 (a) in which the human remains are transported to the crematory and placed in the  
4987 cremation chamber for cremation; and

4988 (b) that meets substantially all of the following standards:

4989 (i) composed of readily combustible or consumable materials suitable for cremation;

4990 (ii) able to be closed in order to provide a complete covering for the human remains;

4991 (iii) resistant to leakage or spillage;

4992 (iv) rigid enough for handling with ease; and

4993 (v) able to provide protection for the health, safety, and personal integrity of crematory  
4994 personnel.

4995 (14) "Crematory" means the building or portion of a building that houses the cremation  
4996 chamber and the holding facility.

4997 (15) "Direct disposition" means the disposition of a dead human body:

4998 (a) as quickly as law allows;

4999 (b) without preparation of the body by embalming; and

5000 (c) without an attendant funeral service or graveside service.

5001 (16) "Disposition" means the final disposal of a dead human body by:

5002 (a) earth interment;

5003 (b) above ground burial;

5004 (c) cremation;

5005 (d) calcination;

5006 (e) alkaline hydrolysis;

5007 (f) burial at sea;

5008 (g) delivery to a medical institution; or

5009 (h) other lawful means.

5010 (17) "Embalming" means replacing body fluids in a dead human body with preserving  
5011 and disinfecting chemicals.

5012 (18) (a) "Funeral merchandise" means any of the following into which a dead human  
5013 body is placed in connection with the transportation or disposition of the body:

- 5014 (i) a vault;
- 5015 (ii) a casket; or
- 5016 (iii) other personal property.
- 5017 (b) "Funeral merchandise" does not include:
- 5018 (i) a mausoleum crypt;
- 5019 (ii) an interment receptacle preset in a cemetery; or
- 5020 (iii) a columbarium niche.
- 5021 (19) "Funeral service" means a service, rite, or ceremony performed:
- 5022 (a) with respect to the death of a human; and
- 5023 (b) with the body of the deceased present.
- 5024 (20) "Funeral service director" means an individual licensed under this chapter who
- 5025 may engage in all lawful professional activities regulated and defined under the practice of
- 5026 funeral service.
- 5027 (21) (a) "Funeral service establishment" means a place of business at a specific street
- 5028 address or location licensed under this chapter that is devoted to:
- 5029 (i) the embalming, care, custody, shelter, preparation for burial, and final disposition of
- 5030 dead human bodies; and
- 5031 (ii) the furnishing of services, merchandise, and products purchased from the
- 5032 establishment as a preneed provider under a preneed funeral arrangement.
- 5033 (b) "Funeral service establishment" includes:
- 5034 (i) all portions of the business premises and all tools, instruments, and supplies used in
- 5035 the preparation and embalming of dead human bodies for burial, cremation, alkaline
- 5036 hydrolysis, and final disposition as defined by division rule; and
- 5037 (ii) a facility used by the business in which funeral services may be conducted.
- 5038 (22) "Funeral service intern" means an individual licensed under this chapter who is
- 5039 permitted to:
- 5040 (a) assist a funeral service director in the embalming or other preparation of a dead
- 5041 human body for disposition;

5042 (b) assist a funeral service director in the cremation, calcination, alkaline hydrolysis, or  
5043 pulverization of a dead human body or its remains; and

5044 (c) perform other funeral service activities under the supervision of a funeral service  
5045 director.

5046 (23) "Graveside service" means a funeral service held at the location of disposition.

5047 (24) "Memorial service" means a service, rite, or ceremony performed:

5048 (a) with respect to the death of a human; and

5049 (b) without the body of the deceased present.

5050 (25) "Practice of funeral service" means:

5051 (a) supervising the receipt of custody and transportation of a dead human body to  
5052 prepare the body for:

5053 (i) disposition; or

5054 (ii) shipment to another location;

5055 (b) entering into a contract with a person to provide professional services regulated  
5056 under this chapter;

5057 (c) embalming or otherwise preparing a dead human body for disposition;

5058 (d) supervising the arrangement or conduct of:

5059 (i) a funeral service;

5060 (ii) a graveside service; or

5061 (iii) a memorial service;

5062 (e) cremation, calcination, alkaline hydrolysis, or pulverization of a dead human body  
5063 or the body's remains;

5064 (f) supervising the arrangement of:

5065 (i) a disposition; or

5066 (ii) a direct disposition;

5067 (g) facilitating:

5068 (i) a disposition; or

5069 (ii) a direct disposition;

5070 (h) supervising the sale of funeral merchandise by a funeral establishment;  
5071 (i) managing or otherwise being responsible for the practice of funeral service in a  
5072 licensed funeral service establishment;  
5073 (j) supervising the sale of a preneed funeral arrangement; and  
5074 (k) contracting with or employing individuals to sell a preneed funeral arrangement.  
5075 (26) (a) "Preneed funeral arrangement" means a written or oral agreement sold in  
5076 advance of the death of the beneficiary under which a person agrees with a buyer to provide at  
5077 the death of the beneficiary any of the following as are typically provided in connection with a  
5078 disposition:  
5079 (i) goods;  
5080 (ii) services, including:  
5081 (A) embalming services; and  
5082 (B) funeral directing services;  
5083 (iii) real property; or  
5084 (iv) personal property, including:  
5085 (A) a casket;  
5086 (B) another primary container;  
5087 (C) a cremation, alkaline hydrolysis, or transportation container;  
5088 (D) an outer burial container;  
5089 (E) a vault;  
5090 (F) a grave liner;  
5091 (G) funeral clothing and accessories;  
5092 (H) a monument;  
5093 (I) a grave marker; and  
5094 (J) a cremation or alkaline hydrolysis urn.  
5095 (b) "Preneed funeral arrangement" does not include a policy or product of life  
5096 insurance providing a death benefit cash payment upon the death of the beneficiary which is  
5097 not limited to providing the products or services described in Subsection [~~(23)~~] (26)(a).

5098 (27) "Processing" means the reduction of identifiable bone fragments after the  
5099 completion of the cremation or the alkaline hydrolysis process to unidentifiable bone fragments  
5100 by manual means.

5101 (28) "Pulverization" means the reduction of identifiable bone fragments after the  
5102 completion of the cremation or alkaline hydrolysis and processing to granulated particles by  
5103 manual or mechanical means.

5104 (29) "Resomation" means the alkaline hydrolysis process.

5105 (30) "Sales agent" means an individual licensed under this chapter as a preneed funeral  
5106 arrangement sales agent.

5107 (31) "Temporary container" means a receptacle for cremated or alkaline hydrolysis  
5108 remains usually made of cardboard, plastic, or similar material designed to hold the cremated  
5109 remains until an urn or other permanent container is acquired.

5110 (32) "Unlawful conduct" means the same as that term is defined in Sections [58-1-501](#)  
5111 and [58-9-501](#).

5112 (33) "Unprofessional conduct" means the same as that term is defined in Sections  
5113 [58-1-501](#) and [58-9-502](#).

5114 (34) "Urn" means a receptacle designed to permanently encase cremated or alkaline  
5115 hydrolysis remains.

5116 Section 82. Section **58-28-606** is amended to read:

5117 **58-28-606. Veterinary corporations, partnerships, and limited liability companies**  
5118 **-- Unlicensed individuals -- Ownership of capital stock -- Service as officer or director.**

5119 (1) As used in this section:

5120 (a) "Veterinary corporation" means a professional corporation organized to render  
5121 veterinary services under Title 16, Chapter 11, Professional Corporation Act.

5122 (b) "Veterinary limited liability company" means a limited liability company organized  
5123 to render veterinary services under Title 48, Chapter 3a, Utah Revised Uniform Limited  
5124 Liability Company Act.

5125 (c) "Veterinary partnership" means a partnership or limited liability partnership

5126 organized to render veterinary services under [~~Title 48, Chapter 1, General and Limited~~  
5127 ~~Liability Partnerships~~.];

5128 (i) Title 48, Chapter 1d, Utah Uniform Partnership Act; or

5129 (ii) Title 48, Chapter 2e, Utah Uniform Limited Partnership Act.

5130 (2) A veterinary corporation may issue or transfer shares of the veterinary corporation's  
5131 capital stock to a person that is not licensed to practice veterinary medicine, surgery, and  
5132 dentistry under this chapter.

5133 (3) An individual who is not licensed to practice veterinary medicine, surgery, and  
5134 dentistry under this chapter:

5135 (a) may not serve as an officer or director of a veterinary corporation; and

5136 (b) may serve as secretary or treasurer of a veterinary corporation.

5137 (4) A veterinary limited liability company or a veterinary partnership may include an  
5138 individual who is not licensed to practice veterinary medicine, surgery, and dentistry under this  
5139 chapter.

5140 Section 83. Section **58-37-8** is amended to read:

5141 **58-37-8. Prohibited acts -- Penalties.**

5142 (1) Prohibited acts A -- Penalties and reporting:

5143 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and  
5144 intentionally:

5145 (i) produce, manufacture, or dispense, or to possess with intent to produce,  
5146 manufacture, or dispense, a controlled or counterfeit substance;

5147 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or  
5148 arrange to distribute a controlled or counterfeit substance;

5149 (iii) possess a controlled or counterfeit substance with intent to distribute; or

5150 (iv) engage in a continuing criminal enterprise where:

5151 (A) the person participates, directs, or engages in conduct that results in a violation of  
5152 [~~Chapters~~] Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia  
5153 Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled



5154 Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and  
5155 (B) the violation is a part of a continuing series of two or more violations of [~~Chapters~~  
5156 Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act,  
5157 Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance  
5158 Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are  
5159 undertaken in concert with five or more persons with respect to whom the person occupies a  
5160 position of organizer, supervisor, or any other position of management.

5161 (b) A person convicted of violating Subsection (1)(a) with respect to:

5162 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled  
5163 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second  
5164 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or  
5165 subsequent conviction is guilty of a first degree felony;

5166 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or  
5167 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and  
5168 upon a second or subsequent conviction is guilty of a second degree felony; or

5169 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a  
5170 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree  
5171 felony.

5172 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may  
5173 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of  
5174 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the  
5175 person or in the person's immediate possession during the commission or in furtherance of the  
5176 offense, the court shall additionally sentence the person convicted for a term of one year to run  
5177 consecutively and not concurrently; and the court may additionally sentence the person  
5178 convicted for an indeterminate term not to exceed five years to run consecutively and not  
5179 concurrently.

5180 (d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
5181 felony punishable by imprisonment for an indeterminate term of not less than seven years and

5182 which may be for life. Imposition or execution of the sentence may not be suspended, and the  
5183 person is not eligible for probation.

5184 (e) The Administrative Office of the Courts shall report to the Division of  
5185 Occupational and Professional Licensing the name, case number, date of conviction, and if  
5186 known, the date of birth of each person convicted of violating Subsection (1)(a).

5187 (2) Prohibited acts B -- Penalties and reporting:

5188 (a) It is unlawful:

5189 (i) for a person knowingly and intentionally to possess or use a controlled substance  
5190 analog or a controlled substance, unless it was obtained under a valid prescription or order,  
5191 directly from a practitioner while acting in the course of the person's professional practice, or as  
5192 otherwise authorized by this chapter;

5193 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,  
5194 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied  
5195 by persons unlawfully possessing, using, or distributing controlled substances in any of those  
5196 locations; or

5197 (iii) for a person knowingly and intentionally to possess an altered or forged  
5198 prescription or written order for a controlled substance.

5199 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

5200 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

5201 or

5202 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty  
5203 of a class A misdemeanor on a first or second conviction, and on a third or subsequent  
5204 conviction is guilty of a third degree felony.

5205 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a  
5206 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater  
5207 penalty than provided in this Subsection (2).

5208 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled  
5209 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section

5210 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the  
5211 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the  
5212 person is guilty of a third degree felony.

5213 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior  
5214 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a  
5215 public jail or other place of confinement shall be sentenced to a penalty one degree greater than  
5216 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as  
5217 listed in:

5218 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an  
5219 indeterminate term as provided by law, and:

5220 (A) the court shall additionally sentence the person convicted to a term of one year to  
5221 run consecutively and not concurrently; and

5222 (B) the court may additionally sentence the person convicted for an indeterminate term  
5223 not to exceed five years to run consecutively and not concurrently; and

5224 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an  
5225 indeterminate term as provided by law, and the court shall additionally sentence the person  
5226 convicted to a term of six months to run consecutively and not concurrently.

5227 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

5228 (i) on a first conviction, guilty of a class B misdemeanor;

5229 (ii) on a second conviction, guilty of a class A misdemeanor; and

5230 (iii) on a third or subsequent conviction, guilty of a third degree felony.

5231 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not  
5232 amounting to a violation of Section 76-5-207:

5233 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's  
5234 body any measurable amount of a controlled substance; and

5235 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,  
5236 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

5237 (h) A person who violates Subsection (2)(g) by having in the person's body:

5238 (i) a controlled substance classified under Schedule I, other than those described in  
5239 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second  
5240 degree felony;

5241 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection  
5242 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third  
5243 degree felony; or

5244 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A  
5245 misdemeanor.

5246 (i) A person is guilty of a separate offense for each victim suffering serious bodily  
5247 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)  
5248 whether or not the injuries arise from the same episode of driving.

5249 (j) The Administrative Office of the Courts shall report to the Division of Occupational  
5250 and Professional Licensing the name, case number, date of conviction, and if known, the date  
5251 of birth of each person convicted of violating Subsection (2)(a).

5252 (3) Prohibited acts C -- Penalties:

5253 (a) It is unlawful for a person knowingly and intentionally:

5254 (i) to use in the course of the manufacture or distribution of a controlled substance a  
5255 license number which is fictitious, revoked, suspended, or issued to another person or, for the  
5256 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a  
5257 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized  
5258 person;

5259 (ii) to acquire or obtain possession of, to procure or attempt to procure the  
5260 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be  
5261 attempting to acquire or obtain possession of, or to procure the administration of a controlled  
5262 substance by misrepresentation or failure by the person to disclose receiving a controlled  
5263 substance from another source, fraud, forgery, deception, subterfuge, alteration of a  
5264 prescription or written order for a controlled substance, or the use of a false name or address;

5265 (iii) to make a false or forged prescription or written order for a controlled substance,

5266 or to utter the same, or to alter a prescription or written order issued or written under the terms  
5267 of this chapter; or

5268 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to  
5269 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or  
5270 device of another or any likeness of any of the foregoing upon any drug or container or labeling  
5271 so as to render a drug a counterfeit controlled substance.

5272 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A  
5273 misdemeanor.

5274 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third  
5275 degree felony.

5276 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

5277 (4) Prohibited acts D -- Penalties:

5278 (a) Notwithstanding other provisions of this section, a person not authorized under this  
5279 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is  
5280 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier  
5281 of fact finds the act is committed:

5282 (i) in a public or private elementary or secondary school or on the grounds of any of  
5283 those schools during the hours of 6 a.m. through 10 p.m.;

5284 (ii) in a public or private vocational school or postsecondary institution or on the  
5285 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

5286 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or  
5287 facility's hours of operation;

5288 (iv) in a public park, amusement park, arcade, or recreation center when the public or  
5289 amusement park, arcade, or recreation center is open to the public;

5290 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

5291 (vi) in or on the grounds of a library when the library is open to the public;

5292 (vii) within an area that is within 100 feet of any structure, facility, or grounds included  
5293 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

5294 (viii) in the presence of a person younger than 18 years of age, regardless of where the  
5295 act occurs; or

5296 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or  
5297 distribution of a substance in violation of this section to an inmate or on the grounds of a  
5298 correctional facility as defined in Section 76-8-311.3.

5299 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony  
5300 and shall be imprisoned for a term of not less than five years if the penalty that would  
5301 otherwise have been established but for this Subsection (4) would have been a first degree  
5302 felony.

5303 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
5304 not eligible for probation.

5305 (c) If the classification that would otherwise have been established would have been  
5306 less than a first degree felony but for this Subsection (4), a person convicted under this  
5307 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that  
5308 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

5309 (d) (i) If the violation is of Subsection (4)(a)(ix):

5310 (A) the person may be sentenced to imprisonment for an indeterminate term as  
5311 provided by law, and the court shall additionally sentence the person convicted for a term of  
5312 one year to run consecutively and not concurrently; and

5313 (B) the court may additionally sentence the person convicted for an indeterminate term  
5314 not to exceed five years to run consecutively and not concurrently; and

5315 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with  
5316 the mental state required for the commission of an offense, directly or indirectly solicits,  
5317 requests, commands, coerces, encourages, or intentionally aids another person to commit a  
5318 violation of Subsection (4)(a)(ix).

5319 (e) It is not a defense to a prosecution under this Subsection (4) that:

5320 (i) the actor mistakenly believed the individual to be 18 years of age or older at the  
5321 time of the offense or was unaware of the individual's true age; or

5322 (ii) the actor mistakenly believed that the location where the act occurred was not as  
5323 described in Subsection (4)(a) or was unaware that the location where the act occurred was as  
5324 described in Subsection (4)(a).

5325 (5) A violation of this chapter for which no penalty is specified is a class B  
5326 misdemeanor.

5327 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of  
5328 guilty or no contest to a violation or attempted violation of this section or a plea which is held  
5329 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,  
5330 even if the charge has been subsequently reduced or dismissed in accordance with the plea in  
5331 abeyance agreement.

5332 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a  
5333 conviction that is:

5334 (i) from a separate criminal episode than the current charge; and

5335 (ii) from a conviction that is separate from any other conviction used to enhance the  
5336 current charge.

5337 (7) A person may be charged and sentenced for a violation of this section,  
5338 notwithstanding a charge and sentence for a violation of any other section of this chapter.

5339 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu  
5340 of, a civil or administrative penalty or sanction authorized by law.

5341 (b) When a violation of this chapter violates a federal law or the law of another state,  
5342 conviction or acquittal under federal law or the law of another state for the same act is a bar to  
5343 prosecution in this state.

5344 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a  
5345 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled  
5346 substance or substances, is prima facie evidence that the person or persons did so with  
5347 knowledge of the character of the substance or substances.

5348 (10) This section does not prohibit a veterinarian, in good faith and in the course of the  
5349 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or

5350 administering controlled substances or from causing the substances to be administered by an  
5351 assistant or orderly under the veterinarian's direction and supervision.

5352 (11) Civil or criminal liability may not be imposed under this section on:

5353 (a) a person registered under this chapter who manufactures, distributes, or possesses  
5354 an imitation controlled substance for use as a placebo or investigational new drug by a  
5355 registered practitioner in the ordinary course of professional practice or research; or

5356 (b) a law enforcement officer acting in the course and legitimate scope of the officer's  
5357 employment.

5358 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,  
5359 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide  
5360 traditional ceremonial purposes in connection with the practice of a traditional Indian religion  
5361 as defined in Section 58-37-2.

5362 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
5363 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported  
5364 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a  
5365 traditional Indian religion.

5366 (c) (i) The defendant shall provide written notice of intent to claim an affirmative  
5367 defense under this Subsection (12) as soon as practicable, but not later than 10 days before  
5368 trial.

5369 (ii) The notice shall include the specific claims of the affirmative defense.

5370 (iii) The court may waive the notice requirement in the interest of justice for good  
5371 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

5372 (d) The defendant shall establish the affirmative defense under this Subsection (12) by  
5373 a preponderance of the evidence. If the defense is established, it is a complete defense to the  
5374 charges.

5375 (13) (a) It is an affirmative defense that the person produced, possessed, or  
5376 administered a controlled substance listed in Section 58-37-4.2 if the person was:

5377 (i) engaged in medical research; and



5378 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

5379 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed  
5380 a controlled substance listed in Section 58-37-4.2.

5381 (14) It is an affirmative defense that the person possessed, in the person's body, a  
5382 controlled substance listed in Section 58-37-4.2 if:

5383 (a) the person was the subject of medical research conducted by a holder of a valid  
5384 license to possess controlled substances under Section 58-37-6; and

5385 (b) the substance was administered to the person by the medical researcher.

5386 (15) The application of any increase in penalty under this section to a violation of  
5387 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This  
5388 Subsection (15) takes precedence over any conflicting provision of this section.

5389 (16) (a) It is an affirmative defense to an allegation of the commission of an offense  
5390 listed in Subsection (16)(b) that the person:

5391 (i) reasonably believes that the person or another person is experiencing an overdose  
5392 event due to the ingestion, injection, inhalation, or other introduction into the human body of a  
5393 controlled substance or other substance;

5394 (ii) reports in good faith the overdose event to a medical provider, an emergency  
5395 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911  
5396 emergency call system, or an emergency dispatch system, or the person is the subject of a  
5397 report made under this Subsection (16);

5398 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the  
5399 actual location of the overdose event that facilitates responding to the person experiencing the  
5400 overdose event;

5401 (iv) remains at the location of the person experiencing the overdose event until a  
5402 responding law enforcement officer or emergency medical service provider arrives, or remains  
5403 at the medical care facility where the person experiencing an overdose event is located until a  
5404 responding law enforcement officer arrives;

5405 (v) cooperates with the responding medical provider, emergency medical service

5406 provider, and law enforcement officer, including providing information regarding the person  
5407 experiencing the overdose event and any substances the person may have injected, inhaled, or  
5408 otherwise introduced into the person's body; and

5409 (vi) is alleged to have committed the offense in the same course of events from which  
5410 the reported overdose arose.

5411 (b) The offenses referred to in Subsection (16)(a) are:

5412 (i) the possession or use of less than 16 ounces of marijuana;

5413 (ii) the possession or use of a scheduled or listed controlled substance other than  
5414 marijuana; and

5415 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,  
5416 Imitation Controlled Substances Act.

5417 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not  
5418 include seeking medical assistance under this section during the course of a law enforcement  
5419 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

5420 (17) If any provision of this chapter, or the application of any provision to any person  
5421 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the  
5422 invalid provision or application.

5423 (18) A legislative body of a political subdivision may not enact an ordinance that is  
5424 less restrictive than any provision of this chapter.

5425 (19) If a minor who is under 18 years of age is found by a court to have violated this  
5426 section, the court may order the minor to complete:

5427 (a) a screening as defined in Section 41-6a-501;

5428 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an  
5429 assessment to be appropriate; and

5430 (c) an educational series as defined in Section 41-6a-501 or substance use disorder  
5431 treatment as indicated by an assessment.

5432 Section 84. Section 59-2-919 is amended to read:

5433 **59-2-919. Notice and public hearing requirements for certain tax increases --**

5434 **Exceptions.**

5435 (1) As used in this section:

5436 (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue  
5437 generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

5438 (b) "Ad valorem tax revenue" means ad valorem property tax revenue not including  
5439 revenue from:

5440 (i) eligible new growth as defined in Section [59-2-924](#); or

5441 (ii) personal property that is:

5442 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and

5443 (B) semiconductor manufacturing equipment.

5444 (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year  
5445 that begins on January 1 and ends on December 31.

5446 (d) "County executive calendar year taxing entity" means a calendar year taxing entity  
5447 that operates under the county executive-council form of government described in Section  
5448 [17-52a-203](#).

5449 (e) "Current calendar year" means the calendar year immediately preceding the  
5450 calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the  
5451 calendar year taxing entity's certified tax rate.

5452 (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that  
5453 begins on July 1 and ends on June 30.

5454 (g) "Last year's property tax budgeted revenue" does not include revenue received by a  
5455 taxing entity from a debt service levy voted on by the public.

5456 (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax  
5457 rate unless the taxing entity meets:

5458 (a) the requirements of this section that apply to the taxing entity; and

5459 (b) all other requirements as may be required by law.

5460 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar  
5461 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax

5462 rate if the calendar year taxing entity:

5463 (i) 14 or more days before the date of the regular general election or municipal general  
5464 election held in the current calendar year, states at a public meeting:

5465 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the  
5466 calendar year taxing entity's certified tax rate;

5467 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would  
5468 be generated by the proposed increase in the certified tax rate; and

5469 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity  
5470 based on the proposed increase described in Subsection (3)(a)(i)(B);

5471 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in  
5472 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a  
5473 separate item on the meeting agenda that notifies the public that the calendar year taxing entity  
5474 intends to make the statement described in Subsection (3)(a)(i);

5475 (iii) meets the advertisement requirements of Subsections (6) and (7) before the  
5476 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

5477 (iv) provides notice by mail:

5478 (A) seven or more days before the regular general election or municipal general  
5479 election held in the current calendar year; and

5480 (B) as provided in Subsection (3)(c); and

5481 (v) conducts a public hearing that is held:

5482 (A) in accordance with Subsections (8) and (9); and

5483 (B) in conjunction with the public hearing required by Section [17-36-13](#) or [17B-1-610](#).

5484 (b) (i) For a county executive calendar year taxing entity, the statement described in  
5485 Subsection (3)(a)(i) shall be made by the:

5486 (A) county council;

5487 (B) county executive; or

5488 (C) both the county council and county executive.

5489 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the

5490 county council states a dollar amount of additional ad valorem tax revenue that is greater than  
5491 the amount of additional ad valorem tax revenue previously stated by the county executive in  
5492 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

5493 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the  
5494 county executive calendar year taxing entity conducts the public hearing under Subsection  
5495 (3)(a)(v); and

5496 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the  
5497 county executive calendar year taxing entity conducts the public hearing required by  
5498 Subsection (3)(a)(v).

5499 (c) The notice described in Subsection (3)(a)(iv):

5500 (i) shall be mailed to each owner of property:

5501 (A) within the calendar year taxing entity; and

5502 (B) listed on the assessment roll;

5503 (ii) shall be printed on a separate form that:

5504 (A) is developed by the commission;

5505 (B) states at the top of the form, in bold upper-case type no smaller than 18 point

5506 "NOTICE OF PROPOSED TAX INCREASE"; and

5507 (C) may be mailed with the notice required by Section [59-2-1317](#);

5508 (iii) shall contain for each property described in Subsection (3)(c)(i):

5509 (A) the value of the property for the current calendar year;

5510 (B) the tax on the property for the current calendar year; and

5511 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year  
5512 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax  
5513 rate, the estimated tax on the property;

5514 (iv) shall contain the following statement:

5515 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar  
5516 year]. This notice contains estimates of the tax on your property and the proposed tax increase  
5517 on your property as a result of this tax increase. These estimates are calculated on the basis of

5518 [insert previous applicable calendar year] data. The actual tax on your property and proposed  
5519 tax increase on your property may vary from this estimate.";

5520 (v) shall state the date, time, and place of the public hearing described in Subsection  
5521 (3)(a)(v); and

5522 (vi) may contain other property tax information approved by the commission.

5523 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall  
5524 calculate the estimated tax on property on the basis of:

5525 (i) data for the current calendar year; and

5526 (ii) the amount of additional ad valorem tax revenue stated in accordance with this  
5527 section.

5528 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate  
5529 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

5530 (a) provides notice by meeting the advertisement requirements of Subsections (6) and  
5531 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year  
5532 taxing entity's annual budget is adopted; and

5533 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the  
5534 fiscal year taxing entity's annual budget is adopted.

5535 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements  
5536 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with  
5537 the requirements of this section.

5538 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or  
5539 (4) if:

5540 (i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that  
5541 certified tax rate without having to comply with the notice provisions of this section; or

5542 (ii) the taxing entity:

5543 (A) budgeted less than \$20,000 in ad valorem tax [~~revenues~~] revenue for the previous  
5544 fiscal year; and

5545 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax

5546 [revenues] revenue.

5547 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this  
5548 section shall be published:

5549 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of  
5550 general circulation in the taxing entity;

5551 (ii) electronically in accordance with Section 45-1-101; and

5552 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

5553 (b) The advertisement described in Subsection (6)(a)(i) shall:

5554 (i) be no less than 1/4 page in size;

5555 (ii) use type no smaller than 18 point; and

5556 (iii) be surrounded by a 1/4-inch border.

5557 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that  
5558 portion of the newspaper where legal notices and classified advertisements appear.

5559 (d) It is the intent of the Legislature that:

5560 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a  
5561 newspaper that is published at least one day per week; and

5562 (ii) the newspaper or combination of newspapers selected:

5563 (A) be of general interest and readership in the taxing entity; and

5564 (B) not be of limited subject matter.

5565 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:

5566 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks  
5567 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);  
5568 and

5569 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the  
5570 advertisement, which shall be seven or more days after the day the first advertisement is  
5571 published, for the purpose of hearing comments regarding any proposed increase and to explain  
5572 the reasons for the proposed increase.

5573 (ii) The advertisement described in Subsection (6)(a)(ii) shall:

5574 (A) be published two weeks before a taxing entity conducts a public hearing described  
5575 in Subsection (3)(a)(v) or (4)(b); and

5576 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the  
5577 advertisement, which shall be seven or more days after the day the first advertisement is  
5578 published, for the purpose of hearing comments regarding any proposed increase and to explain  
5579 the reasons for the proposed increase.

5580 (f) If a fiscal year taxing entity's public hearing information is published by the county  
5581 auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the  
5582 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run  
5583 the advertisement once during the week before the fiscal year taxing entity conducts a public  
5584 hearing at which the taxing entity's annual budget is discussed.

5585 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an  
5586 advertisement shall be substantially as follows:

5587 "NOTICE OF PROPOSED TAX INCREASE  
5588 (NAME OF TAXING ENTITY)

5589 The (name of the taxing entity) is proposing to increase its property tax revenue.

5590 ● The (name of the taxing entity) tax on a (insert the average value of a residence  
5591 in the taxing entity rounded to the nearest thousand dollars) residence would  
5592 increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

5593 ● The (name of the taxing entity) tax on a (insert the value of a business having  
5594 the same value as the average value of a residence in the taxing entity) business  
5595 would increase from \$\_\_\_\_\_ to \$\_\_\_\_\_, which is \$\_\_\_\_\_ per year.

5596 ● If the proposed budget is approved, (name of the taxing entity) would increase  
5597 its property tax budgeted revenue by \_\_\_% above last year's property tax  
5598 budgeted revenue excluding eligible new growth.

5599 All concerned citizens are invited to a public hearing on the tax increase.

5600 PUBLIC HEARING

5601 Date/Time: (date) (time)



5602           Location:       (name of meeting place and address of meeting place)  
5603           To obtain more information regarding the tax increase, citizens may contact the (name  
5604 of the taxing entity) at (phone number of taxing entity)."

5605           (7) The commission:  
5606           (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative  
5607 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by  
5608 two or more taxing entities; and

5609           (b) subject to Section 45-1-101, may authorize:  
5610           (i) the use of a weekly newspaper:

5611           (A) in a county having both daily and weekly newspapers if the weekly newspaper  
5612 would provide equal or greater notice to the taxpayer; and

5613           (B) if the county petitions the commission for the use of the weekly newspaper; or  
5614           (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer

5615 if:  
5616           (A) the cost of the advertisement would cause undue hardship;

5617           (B) the direct notice is different and separate from that provided for in Section  
5618 59-2-919.1; and

5619           (C) the taxing entity petitions the commission for the use of a commission approved  
5620 direct notice.

5621           (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county  
5622 legislative body in which the fiscal year taxing entity is located of the date, time, and place of  
5623 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

5624           (B) A county that receives notice from a fiscal year taxing entity under Subsection  
5625 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place  
5626 of the public hearing described in Subsection (8)(a)(i)(A).

5627           (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar  
5628 year, notify the county legislative body in which the calendar year taxing entity is located of the  
5629 date, time, and place of the first public hearing at which the calendar year taxing entity's annual

5630 budget will be discussed.

5631 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

5632 (A) open to the public; and

5633 (B) held at a meeting of the taxing entity with no items on the agenda other than

5634 discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing

5635 entity's certified tax rate, the taxing entity's budget, a local district's or special service district's

5636 fee implementation or increase, or a combination of these items.

5637 (ii) The governing body of a taxing entity conducting a public hearing described in

5638 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an

5639 opportunity to present oral testimony:

5640 (A) within reasonable time limits; and

5641 (B) without unreasonable restriction on the number of individuals allowed to make

5642 public comment.

5643 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a

5644 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing

5645 of another overlapping taxing entity in the same county.

5646 (ii) The taxing entities in which the power to set tax levies is vested in the same

5647 governing board or authority may consolidate the public hearings described in Subsection

5648 (3)(a)(v) or (4)(b) into one public hearing.

5649 (d) A county legislative body shall resolve any conflict in public hearing dates and

5650 times after consultation with each affected taxing entity.

5651 (e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or

5652 (4)(b) beginning at or after 6 p.m.

5653 (ii) If a taxing entity holds a public meeting for the purpose of addressing general

5654 business of the taxing entity on the same date as a public hearing described in Subsection

5655 (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before

5656 the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

5657 (f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the

5658 public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public  
5659 hearing of the taxing entity.

5660 (ii) A taxing entity may hold the following hearings on the same date as a public  
5661 hearing described in Subsection (3)(a)(v) or (4)(b):

5662 (A) a budget hearing;

5663 (B) if the taxing entity is a local district or a special service district, a fee hearing  
5664 described in Section 17B-1-643;

5665 (C) if the taxing entity is a town, an enterprise fund hearing described in Section  
5666 10-5-107.5; or

5667 (D) if the taxing entity is a city, an enterprise fund hearing described in Section  
5668 10-6-135.5.

5669 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad  
5670 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing  
5671 entity shall:

5672 (i) announce at that public hearing the scheduled time and place of the next public  
5673 meeting at which the taxing entity will consider budgeting the additional ad valorem tax  
5674 revenue; and

5675 (ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described  
5676 in Subsection (9)(a)(i) before September 1.

5677 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount  
5678 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem  
5679 tax revenue stated at a public meeting under Subsection (3)(a)(i).

5680 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's  
5681 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed  
5682 annual budget.

5683 Section 85. Section **59-2-924** is amended to read:

5684 **59-2-924. Definitions -- Report of valuation of property to county auditor and**  
5685 **commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax**

5686 **rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the**  
5687 **commission.**

5688 (1) As used in this section:

5689 (a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with  
5690 this chapter.

5691 (ii) "Ad valorem property tax revenue" does not include:

5692 (A) interest;

5693 (B) penalties;

5694 (C) collections from redemptions; or

5695 (D) revenue received by a taxing entity from personal property that is semiconductor  
5696 manufacturing equipment assessed by a county assessor in accordance with Part 3, County  
5697 Assessment.

5698 (b) (i) "Aggregate taxable value of all property taxed" means:

5699 (A) the aggregate taxable value of all real property a county assessor assesses in  
5700 accordance with Part 3, County Assessment, for the current year;

5701 (B) the aggregate taxable value of all real and personal property the commission  
5702 assesses in accordance with Part 2, Assessment of Property, for the current year; and

5703 (C) the aggregate year end taxable value of all personal property a county assessor  
5704 assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls  
5705 of the taxing entity.

5706 (ii) "Aggregate taxable value of all property taxed" does not include the aggregate year  
5707 end taxable value of personal property that is:

5708 (A) semiconductor manufacturing equipment assessed by a county assessor in  
5709 accordance with Part 3, County Assessment; and

5710 (B) contained on the prior year's tax rolls of the taxing entity.

5711 (c) "Centrally assessed benchmark value" means an amount equal to the highest year  
5712 end taxable value of real and personal property the commission assesses in accordance with  
5713 Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1,

5714 2015, adjusted for taxable value attributable to:

5715 (i) an annexation to a taxing entity; or

5716 (ii) an incorrect allocation of taxable value of real or personal property the commission

5717 assesses in accordance with Part 2, Assessment of Property.

5718 (d) (i) "Centrally assessed new growth" means the greater of:

5719 (A) zero; or

5720 (B) the amount calculated by subtracting the centrally assessed benchmark value

5721 adjusted for prior year end incremental value from the taxable value of real and personal

5722 property the commission assesses in accordance with Part 2, Assessment of Property, for the

5723 current year, adjusted for current year incremental value.

5724 (ii) "Centrally assessed new growth" does not include a change in value as a result of a

5725 change in the method of apportioning the value prescribed by the Legislature, a court, or the

5726 commission in an administrative rule or administrative order.

5727 (e) "Certified tax rate" means a tax rate that will provide the same ad valorem property

5728 tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

5729 (f) "Eligible new growth" means the greater of:

5730 (i) zero; or

5731 (ii) the sum of:

5732 (A) locally assessed new growth;

5733 (B) centrally assessed new growth; and

5734 (C) project area new growth.

5735 (g) "Incremental value" means the same as that term is defined in Section [17C-1-102](#).

5736 (h) (i) "Locally assessed new growth" means the greater of:

5737 (A) zero; or

5738 (B) the amount calculated by subtracting the year end taxable value of real property the

5739 county assessor assesses in accordance with Part 3, County Assessment, for the previous year,

5740 adjusted for prior year end incremental value from the taxable value of real property the county

5741 assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted

5742 for current year incremental value.

5743 (ii) "Locally assessed new growth" does not include a change in:

5744 (A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or  
5745 another adjustment;

5746 (B) assessed value based on whether a property is allowed a residential exemption for a  
5747 primary residence under Section 59-2-103;

5748 (C) assessed value based on whether a property is assessed under Part 5, Farmland  
5749 Assessment Act; or

5750 (D) assessed value based on whether a property is assessed under Part 17, Urban  
5751 Farming Assessment Act.

5752 (i) "Project area" means the same as that term is defined in Section 17C-1-102.

5753 (j) "Project area new growth" means an amount equal to the incremental value that is  
5754 no longer provided to an agency as tax increment.

5755 (2) Before June 1 of each year, the county assessor of each county shall deliver to the  
5756 county auditor and the commission the following statements:

5757 (a) a statement containing the aggregate valuation of all taxable real property a county  
5758 assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

5759 (b) a statement containing the taxable value of all personal property a county assessor  
5760 assesses in accordance with Part 3, County Assessment, from the prior year end values.

5761 (3) The county auditor shall, on or before June 8, transmit to the governing body of  
5762 each taxing entity:

5763 (a) the statements described in Subsections (2)(a) and (b);

5764 (b) an estimate of the revenue from personal property;

5765 (c) the certified tax rate; and

5766 (d) all forms necessary to submit a tax levy request.

5767 (4) (a) Except as otherwise provided in this section, the certified tax rate shall be  
5768 calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the  
5769 prior year by the amount calculated under Subsection (4)(b).

5770 (b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall  
5771 calculate an amount as follows:

5772 (i) calculate for the taxing entity the difference between:  
5773 (A) the aggregate taxable value of all property taxed; and  
5774 (B) any adjustments for current year incremental value;

5775 (ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount  
5776 determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the  
5777 average of the percentage net change in the value of taxable property for the equalization  
5778 period for the three calendar years immediately preceding the current calendar year;

5779 (iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product  
5780 of:  
5781 (A) the amount calculated under Subsection (4)(b)(ii); and  
5782 (B) the percentage of property taxes collected for the five calendar years immediately  
5783 preceding the current calendar year; and

5784 (iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount  
5785 determined by:  
5786 (A) multiplying the percentage of property taxes collected for the five calendar years  
5787 immediately preceding the current calendar year by eligible new growth; and  
5788 (B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount  
5789 calculated under Subsection (4)(b)(iii).

5790 (5) A certified tax rate for a taxing entity described in this Subsection (5) shall be  
5791 calculated as follows:

5792 (a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax  
5793 rate is zero;

5794 (b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:  
5795 (i) in a county of the first, second, or third class, the levy imposed for municipal-type  
5796 services under Sections 17-34-1 and 17-36-9; and  
5797 (ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county

5798 purposes and such other levies imposed solely for the municipal-type services identified in  
5799 Section 17-34-1 and Subsection 17-36-3[(22)](23); and

5800 (c) for debt service voted on by the public, the certified tax rate is the actual levy  
5801 imposed by that section, except that a certified tax rate for the following levies shall be  
5802 calculated in accordance with Section 59-2-913 and this section:

5803 (i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

5804 (ii) a levy to pay for the costs of state legislative mandates or judicial or administrative  
5805 orders under Section 59-2-1602.

5806 (6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be  
5807 imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more  
5808 eligible judgments.

5809 (b) The ad valorem property tax revenue generated by a judgment levy described in  
5810 Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax  
5811 rate.

5812 (7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

5813 (i) the taxable value of real property:

5814 (A) the county assessor assesses in accordance with Part 3, County Assessment; and

5815 (B) contained on the assessment roll;

5816 (ii) the year end taxable value of personal property:

5817 (A) a county assessor assesses in accordance with Part 3, County Assessment; and

5818 (B) contained on the prior year's assessment roll; and

5819 (iii) the taxable value of real and personal property the commission assesses in  
5820 accordance with Part 2, Assessment of Property.

5821 (b) For purposes of Subsection (7)(a), taxable value does not include eligible new  
5822 growth.

5823 (8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

5824 (b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall  
5825 notify the county auditor of:



- 5826 (i) the taxing entity's intent to exceed the certified tax rate; and
- 5827 (ii) the amount by which the taxing entity proposes to exceed the certified tax rate.
- 5828 (c) The county auditor shall notify property owners of any intent to levy a tax rate that
- 5829 exceeds the certified tax rate in accordance with Sections [59-2-919](#) and [59-2-919.1](#).

5830 (9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through  
5831 electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim  
5832 Committee if:

5833 (i) the amount calculated under Subsection (9)(b) is 10% or more of the year end  
5834 taxable value of the real and personal property the commission assesses in accordance with  
5835 Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental  
5836 value; and

5837 (ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end  
5838 taxable value of the real and personal property of a taxpayer the commission assesses in  
5839 accordance with Part 2, Assessment of Property, for the previous year.

5840 (b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by  
5841 subtracting the taxable value of real and personal property the commission assesses in  
5842 accordance with Part 2, Assessment of Property, for the current year, adjusted for current year  
5843 incremental value, from the year end taxable value of the real and personal property the  
5844 commission assesses in accordance with Part 2, Assessment of Property, for the previous year,  
5845 adjusted for prior year end incremental value.

5846 (c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by  
5847 subtracting the total taxable value of real and personal property of a taxpayer the commission  
5848 assesses in accordance with Part 2, Assessment of Property, for the current year, from the total  
5849 year end taxable value of the real and personal property of a taxpayer the commission assesses  
5850 in accordance with Part 2, Assessment of Property, for the previous year.

5851 (d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet  
5852 the requirement under Subsection (9)(a)(ii).

5853 Section 86. Section **59-2-1905** is amended to read:

5854 **59-2-1905. Refund.**

5855 (1) As used in this section:

5856 (a) "Property taxes and fees due" means:

5857 (i) the taxes due on an active duty claimant or veteran claimant's property:

5858 (A) with respect to which a county grants an exemption under this part; and

5859 (B) for the calendar year for which the county grants an exemption under this part; and

5860 (ii) for a veteran claimant, a uniform fee on tangible personal property described in

5861 Section 59-2-405 that is owned by the veteran claimant and assessed for the calendar year for

5862 which the county grants an exemption under this part.

5863 (b) "Property taxes and fees paid" is an amount equal to the sum of the following:

5864 (i) the amount of property taxes that qualifies for an exemption under this part that the

5865 active duty claimant or the veteran claimant paid for the calendar year for which the active duty

5866 claimant or veteran claimant is applying for an exemption under this part;

5867 (ii) the amount of the exemption the county grants for the calendar year for which the

5868 active duty claimant or veteran claimant is applying for an exemption under this part; and

5869 (iii) for a veteran claimant, the amount of a uniform fee on tangible personal property,

5870 described in Section 59-2-405 and that qualifies for an exemption under this part, that is paid

5871 by the veteran claimant for the calendar year for which the veteran claimant is applying for an

5872 exemption under this part.

5873 (2) A county shall refund to an active duty claimant or a veteran claimant an amount

5874 equal to the amount by which the active duty ~~claimant~~ claimant's or veteran claimant's

5875 property taxes and fees paid exceed the active duty ~~claimant~~ claimant's or veteran claimant's

5876 property taxes and fees due, if that amount is \$1 or more.

5877 Section 87. Section 59-7-104 is amended to read:

5878 **59-7-104. Tax -- Minimum tax.**

5879 (1) Each domestic and foreign corporation, except a corporation that is exempt under

5880 Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable

5881 income for the taxable year for the privilege of exercising the corporation's corporate

5882 franchise[, as defined in Section 59-7-101,] or for the privilege of doing business[, as defined  
5883 in Section 59-7-101,] in the state.

5884 (2) The tax shall be 4.95% of a corporation's Utah taxable income.

5885 (3) The minimum tax a corporation shall pay under this chapter is \$100.

5886 Section 88. Section 59-7-610 is amended to read:

5887 **59-7-610. Recycling market development zones tax credits.**

5888 (1) Subject to other provisions of this section, a taxpayer that is a business operating in  
5889 a recycling market development zone as defined in Section 63N-2-402 may claim the following  
5890 nonrefundable tax credits:

5891 (a) a tax credit of 5% of the purchase price paid for machinery and equipment used  
5892 directly in:

5893 (i) commercial composting; or

5894 (ii) manufacturing facilities or plant units that:

5895 (A) manufacture, process, compound, or produce recycled items of tangible personal  
5896 property for sale; or

5897 (B) reduce or reuse postconsumer waste material; and

5898 (b) a tax credit equal to the lesser of:

5899 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test  
5900 inventory, and utilities made by the taxpayer for establishing and operating recycling or  
5901 composting technology in [~~Utah~~] the state; and

5902 (ii) \$2,000.

5903 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive  
5904 from the Governor's Office of Economic Development a written certification, on a form  
5905 approved by the commission, that includes:

5906 (i) a statement that the taxpayer is operating a business within the boundaries of a  
5907 recycling market development zone;

5908 (ii) for [~~claims~~] a claim of the tax credit described in Subsection (1)(a):

5909 (A) the type of the machinery and equipment that the taxpayer purchased;

- 5910 (B) the date that the taxpayer purchased the machinery and equipment;
- 5911 (C) the purchase price for the machinery and equipment;
- 5912 (D) the total purchase price for all machinery and equipment for which the taxpayer is
- 5913 claiming a tax credit;
- 5914 (E) a statement that the machinery and equipment are integral to the composting or
- 5915 recycling process; and
- 5916 (F) the amount of the taxpayer's tax credit; and
- 5917 (iii) for ~~claims~~ a claim of the tax credit described in Subsection (1)(b):
- 5918 (A) the type of net expenditure that the taxpayer made to a third party;
- 5919 (B) the date that the taxpayer made the payment to a third party;
- 5920 (C) the amount that the taxpayer paid to each third party;
- 5921 (D) the total amount that the taxpayer paid to all third parties;
- 5922 (E) a statement that the net expenditures support the establishment and operation of
- 5923 recycling or composting technology in ~~Utah~~ the state; and
- 5924 (F) the amount of the taxpayer's tax credit.
- 5925 (b) (i) The Governor's Office of Economic Development shall provide a taxpayer
- 5926 seeking to claim a tax credit under Subsection (1) with a copy of the written certification.
- 5927 (ii) The taxpayer shall retain a copy of the written certification for the same period of
- 5928 time that a person is required to keep books and records under Section [59-1-1406](#).
- 5929 (c) The Governor's Office of Economic Development shall submit to the commission
- 5930 an electronic list that includes:
- 5931 (i) the name and identifying information of each taxpayer to which the ~~office~~
- 5932 Governor's Office of Economic Development issues a written certification; and
- 5933 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 5934 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
- 5935 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
- 5936 calculated:
- 5937 (a) for the taxable year in which the taxpayer made the purchases or payments;

5938 (b) before any other tax credits the taxpayer may claim for the taxable year; and

5939 (c) before the taxpayer [~~claiming~~] claims a tax credit authorized by this section.

5940 (4) The commission shall make rules governing what information a taxpayer shall file  
5941 with the commission to verify the entitlement to and amount of a tax credit.

5942 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to  
5943 the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax  
5944 liability for the taxable year.

5945 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection  
5946 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under  
5947 Section [63N-2-213](#).

5948 (7) A taxpayer may not claim or carry forward a tax credit described in Subsection  
5949 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under  
5950 Section [63N-2-213](#).

5951 (8) A taxpayer may not claim or carry forward a tax credit under this section for a  
5952 taxable year during which the taxpayer claims the targeted business income tax credit under  
5953 Section [59-7-624](#).

5954 Section 89. Section **59-7-614.10** is amended to read:

5955 **59-7-614.10. Nonrefundable enterprise zone tax credit.**

5956 (1) As used in this section:

5957 (a) "Business entity" means a corporation that meets the definition of "business entity"  
5958 as that term is defined in Section [63N-2-202](#).

5959 (b) "Office" means the Governor's Office of Economic Development created in Section  
5960 [63N-1-201](#).

5961 (2) Subject to the provisions of this section, a business entity may claim a  
5962 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

5963 (3) The enterprise zone tax credit under this section is the amount listed as the tax  
5964 credit amount on the tax credit certificate that the office issues to the business entity for the  
5965 taxable year.

5966 (4) A business entity may carry forward a tax credit under this section for a period that  
5967 does not exceed the next three taxable years, if the amount of the tax credit exceeds the  
5968 business entity's tax liability under this chapter for that taxable year.

5969 (5) A business entity may not claim or carry forward a tax credit [~~available~~] under this  
5970 part for a taxable year during which the business entity has claimed the targeted business  
5971 income tax credit [~~available~~] under Section 59-7-624.

5972 (6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim  
5973 Committee shall study the tax credit allowed by this section and make recommendations  
5974 concerning whether the tax credit should be continued, modified, or repealed.

5975 (b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by  
5976 this Subsection (6), the office shall provide by electronic means the following information for  
5977 each calendar year to the Office of the Legislative Fiscal Analyst:

5978 (A) the amount of tax credits provided in each development zone;

5979 (B) the number of new full-time employee positions reported to obtain tax credits in  
5980 each development zone;

5981 (C) the amount of tax credits awarded for rehabilitating a building in each development  
5982 zone;

5983 (D) the amount of tax credits awarded for investing in a plant, equipment, or other  
5984 depreciable property in each development zone;

5985 (E) the information related to the tax credit contained in the office's latest report under  
5986 Section 63N-1-301; and

5987 (F) any other information that the Office of the Legislative Fiscal Analyst requests.

5988 (ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall  
5989 redact information that identifies a recipient of a tax credit under this section.

5990 (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting  
5991 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a  
5992 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to  
5993 provide the information described in Subsection (6)(b)(i) in the aggregate for all development

5994 zones that receive the tax credit under this section.

5995 (c) As part of the study required by this Subsection (6), the Office of the Legislative  
5996 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and  
5997 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the  
5998 office under Subsection (6)(b).

5999 (d) The Revenue and Taxation Interim Committee shall ensure that the  
6000 recommendations described in Subsection (6)(a) include an evaluation of:

- 6001 (i) the cost of the tax credit to the state;  
6002 (ii) the purpose and effectiveness of the tax credit; and  
6003 (iii) the extent to which the state benefits from the tax credit.

6004 Section 90. Section **59-7-624** is amended to read:

6005 **59-7-624. Targeted business income tax credit.**

6006 (1) As used in this section, "business applicant" means the same as that term is defined  
6007 in Section [63N-2-302](#).

6008 (2) A business applicant that is certified and issued a targeted business income tax  
6009 eligibility certificate by the [~~office~~] Governor's Office of Economic Development under  
6010 Section [63N-2-304](#) may claim a refundable tax credit in the amount specified on the targeted  
6011 business income tax eligibility certificate.

6012 (3) For a taxable year for which a business applicant claims a targeted business income  
6013 tax credit [~~available~~] under this section, the business applicant may not claim or carry forward a  
6014 tax credit [~~available~~] under Section [59-7-610](#), Section [59-10-1007](#), or Title 63N, Chapter 2,  
6015 Part 2, Enterprise Zone Act.

6016 Section 91. Section **59-10-136** is amended to read:

6017 **59-10-136. Domicile -- Temporary absence from state.**

6018 (1) (a) An individual is considered to have domicile in this state if:

- 6019 (i) except as provided in Subsection (1)(b), a dependent with respect to whom the  
6020 individual or the individual's spouse claims a personal exemption or a tax credit under Section  
6021 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual

6022 income tax return is enrolled in a public kindergarten, public elementary school, or public  
6023 secondary school in this state; or

6024 (ii) the individual or the individual's spouse is a resident student in accordance with  
6025 Section 53B-8-102 who is enrolled in an institution of higher education described in Section  
6026 53B-2-101 in this state.

6027 (b) The determination of whether an individual is considered to have domicile in this  
6028 state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

6029 (i) is the noncustodial parent of a dependent:

6030 (A) with respect to whom the individual claims a personal exemption or a tax credit  
6031 under Section 24, Internal Revenue Code, on the individual's federal individual income tax  
6032 return; and

6033 (B) who is enrolled in a public kindergarten, public elementary school, or public  
6034 secondary school in this state; and

6035 (ii) is divorced from the custodial parent of the dependent described in Subsection  
6036 (1)(b)(i).

6037 (2) There is a rebuttable presumption that an individual is considered to have domicile  
6038 in this state if:

6039 (a) the individual or the individual's spouse claims a residential exemption in  
6040 accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's  
6041 primary residence;

6042 (b) the individual or the individual's spouse:

6043 (i) votes in this state in a regular general election, municipal general election, primary  
6044 election, or special election during the taxable year; and

6045 (ii) has not registered to vote in another state in that taxable year; or

6046 (c) the individual or the individual's spouse asserts residency in this state for purposes  
6047 of filing an individual income tax return under this chapter, including asserting that the  
6048 individual or the individual's spouse is a part-year resident of this state for the portion of the  
6049 taxable year for which the individual or the individual's spouse is a resident of this state.



6050           (3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not  
6051 met for an individual to be considered to have domicile in this state, the individual is  
6052 considered to have domicile in this state if:

6053           (i) the individual or the individual's spouse has a permanent home in this state to which  
6054 the individual or the individual's spouse intends to return after being absent; and

6055           (ii) the individual or the individual's spouse has voluntarily fixed the individual's or the  
6056 individual's spouse's habitation in this state, not for a special or temporary purpose, but with the  
6057 intent of making a permanent home.

6058           (b) The determination of whether an individual is considered to have domicile in this  
6059 state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into  
6060 consideration the totality of the following facts and circumstances:

6061           (i) whether the individual or the individual's spouse has a driver license in this state;

6062           (ii) whether a dependent with respect to whom the individual or the individual's spouse  
6063 claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the  
6064 individual's or individual's spouse's federal individual income tax return is a resident student in  
6065 accordance with Section 53B-8-102 who is enrolled in an institution of higher education  
6066 described in Section 53B-2-101 in this state;

6067           (iii) the nature and quality of the living accommodations that the individual or the  
6068 individual's spouse has in this state as compared to another state;

6069           (iv) the presence in this state of a spouse or dependent with respect to whom the  
6070 individual or the individual's spouse claims a personal exemption or a tax credit under Section  
6071 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual  
6072 income tax return;

6073           (v) the physical location in which earned income as defined in Section 32(c)(2),  
6074 Internal Revenue Code, is earned by the individual or the individual's spouse;

6075           (vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or  
6076 leased by the individual or the individual's spouse;

6077           (vii) whether the individual or the individual's spouse is a member of a church, a club,

6078 or another similar organization in this state;

6079 (viii) whether the individual or the individual's spouse lists an address in this state on  
6080 mail, a telephone listing, a listing in an official government publication, other correspondence,  
6081 or another similar item;

6082 (ix) whether the individual or the individual's spouse lists an address in this state on a  
6083 state or federal tax return;

6084 (x) whether the individual or the individual's spouse asserts residency in this state on a  
6085 document, other than an individual income tax return filed under this chapter, filed with or  
6086 provided to a court or other governmental entity;

6087 (xi) the failure of an individual or the individual's spouse to obtain a permit or license  
6088 normally required of a resident of the state for which the individual or the individual's spouse  
6089 asserts to have domicile; [~~or~~]

6090 (xii) whether the individual is an individual described in Subsection (1)(b);

6091 (xiii) whether the individual:

6092 (A) maintains a place of abode in the state; and

6093 (B) spends in the aggregate 183 or more days of the taxable year in the state; or

6094 (xiv) whether the individual or the individual's spouse:

6095 (A) did not vote in this state in a regular general election, municipal general election,  
6096 primary election, or special election during the taxable year, but voted in the state in a general  
6097 election, municipal general election, primary election, or special election during any of the  
6098 three taxable years prior to that taxable year; and

6099 (B) has not registered to vote in another state during a taxable year described in  
6100 Subsection (3)(b)(xiv)(A).

6101 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
6102 for purposes of Subsection (3)(b)(xiii), the commission may by rule define what constitutes  
6103 spending a day of the taxable year in the state.

6104 (4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions  
6105 of this Subsection (4), an individual is not considered to have domicile in this state if the

6106 individual meets the following qualifications:

6107 (i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's  
6108 spouse are absent from the state for at least 761 consecutive days; and

6109 (ii) during the time period described in Subsection (4)(a)(i), neither the individual nor  
6110 the individual's spouse:

6111 (A) return to this state for more than 30 days in a calendar year;

6112 (B) claim a personal exemption or a tax credit under Section 24, Internal Revenue  
6113 Code, on the individual's or individual's spouse's federal individual income tax return with  
6114 respect to a dependent who is enrolled in a public kindergarten, public elementary school, or  
6115 public secondary school in this state, unless the individual is an individual described in  
6116 Subsection (1)(b);

6117 (C) are resident students in accordance with Section 53B-8-102 who are enrolled in an  
6118 institution of higher education described in Section 53B-2-101 in this state;

6119 (D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for  
6120 that individual's or individual's spouse's primary residence; or

6121 (E) assert that this state is the individual's or the individual's spouse's tax home for  
6122 federal individual income tax purposes.

6123 (b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of  
6124 Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered  
6125 to have domicile in this state by filing an individual income tax return in this state as a resident  
6126 individual.

6127 (c) For purposes of Subsection (4)(a), an absence from the state:

6128 (i) begins on the later of the date:

6129 (A) the individual leaves this state; or

6130 (B) the individual's spouse leaves this state; and

6131 (ii) ends on the date the individual or the individual's spouse returns to this state if the  
6132 individual or the individual's spouse remains in this state for more than 30 days in a calendar  
6133 year.

6134 (d) An individual shall file an individual income tax return or amended individual  
6135 income tax return under this chapter and pay any applicable interest imposed under Section  
6136 59-1-402 if:

6137 (i) the individual did not file an individual income tax return or amended individual  
6138 income tax return under this chapter based on the individual's belief that the individual has met  
6139 the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and

6140 (ii) the individual or the individual's spouse fails to meet a qualification of Subsection  
6141 (4)(a) to not be considered to have domicile in this state.

6142 (e) (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual  
6143 income tax return or amended individual income tax return under Subsection (4)(d) shall pay  
6144 any applicable penalty imposed under Section 59-1-401.

6145 (ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and  
6146 (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return  
6147 or amended individual income tax return under this chapter:

6148 (A) files the individual income tax return or amended individual income tax return  
6149 within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be  
6150 considered to have domicile in this state; and

6151 (B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax  
6152 due on the return, any interest imposed under Section 59-1-402, and any applicable penalty  
6153 imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or  
6154 (5).

6155 (5) Notwithstanding Subsections (2) and (3), for individuals who are spouses for  
6156 purposes of this section and one of the spouses has domicile under this section, the other  
6157 spouse is not considered to have domicile in this state under Subsection (2) or (3) if one of the  
6158 spouses establishes by a preponderance of the evidence that, during the taxable year and for  
6159 three taxable years prior to that taxable year, that other spouse:

6160 (a) is not an owner of property in this state;

6161 (b) does not return to this state for more than 30 days in a calendar year;

6162 (c) has not received earned income as defined in Section 32(c)(2), Internal Revenue  
6163 Code, in this state;

6164 (d) has not voted in this state in a regular general election, municipal general election,  
6165 primary election, or special election; and

6166 (e) does not have a driver license in this state.

6167 (6) (a) Except as provided in Subsection (5), an individual is considered to have  
6168 domicile in this state in accordance with this section, the individual's spouse is considered to  
6169 have domicile in this state.

6170 (b) For purposes of this section, an individual is not considered to have a spouse if:

6171 (i) the individual is legally separated or divorced from the spouse; or

6172 (ii) the individual and the individual's spouse claim married filing separately filing  
6173 status for purposes of filing a federal individual income tax return for the taxable year.

6174 (c) Except as provided in Subsection (6)(b)(ii), for purposes of this section, an  
6175 individual's filing status on a federal individual income tax return or a return filed under this  
6176 chapter may not be considered in determining whether an individual has a spouse.

6177 (7) For purposes of this section, whether or not an individual or the individual's spouse  
6178 claims a property tax residential exemption under Chapter 2, Property Tax Act, for the  
6179 residential property that is the primary residence of a tenant of the individual or the individual's  
6180 spouse may not be considered in determining domicile in this state.

6181 Section 92. Section **59-10-1007** is amended to read:

6182 **59-10-1007. Recycling market development zones tax credits.**

6183 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling  
6184 market development zone as defined in Section [63N-2-402](#) may claim the following  
6185 nonrefundable tax credits:

6186 (a) a tax credit of 5% of the purchase price paid for machinery and equipment used  
6187 directly in:

6188 (i) commercial composting; or

6189 (ii) manufacturing facilities or plant units that:

- 6190 (A) manufacture, process, compound, or produce recycled items of tangible personal  
6191 property for sale; or
- 6192 (B) reduce or reuse postconsumer waste material; and
- 6193 (b) a tax credit equal to the lesser of:
- 6194 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test  
6195 inventory, and utilities made by the claimant, estate, or trust for establishing and operating  
6196 recycling or composting technology in [~~Utah~~] the state; and
- 6197 (ii) \$2,000.
- 6198 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust  
6199 shall receive from the Governor's Office of Economic Development a written certification, on a  
6200 form approved by the commission, that includes:
- 6201 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a  
6202 recycling market development zone;
- 6203 (ii) for [~~claims~~] a claim of the tax credit described in Subsection (1)(a):
- 6204 (A) the type of the machinery and equipment that the claimant, estate, or trust  
6205 purchased;
- 6206 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;
- 6207 (C) the purchase price for the machinery and equipment;
- 6208 (D) the total purchase price for all machinery and equipment for which the claimant,  
6209 estate, or trust is claiming a tax credit;
- 6210 (E) the amount of the claimant's, estate's, or trust's tax credit; and
- 6211 (F) a statement that the machinery and equipment are integral to the composting or  
6212 recycling process; and
- 6213 (iii) for [~~claims~~] a claim of the tax credit described in Subsection (1)(b):
- 6214 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;
- 6215 (B) the date that the claimant, estate, or trust made the payment to a third party;
- 6216 (C) the amount that the claimant, estate, or trust paid to each third party;
- 6217 (D) the total amount that the claimant, estate, or trust paid to all third parties;

6218 (E) a statement that the net expenditures support the establishment and operation of  
6219 recycling or composting technology in [~~Utah~~] the state; and

6220 (F) the amount of the claimant's, estate's, or trust's tax credit.

6221 (b) (i) The Governor's Office of Economic Development shall provide a claimant,  
6222 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written  
6223 certification.

6224 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the  
6225 same period of time that a person is required to keep books and records under Section  
6226 [59-1-1406](#).

6227 (c) The Governor's Office of Economic Development shall submit to the commission  
6228 an electronic list that includes:

6229 (i) the name and identifying information of each claimant, estate, or trust to which the  
6230 [~~office~~] Governor's Office of Economic Development issues a written certification; and

6231 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written  
6232 certification.

6233 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),  
6234 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income  
6235 tax liability as the tax liability is calculated:

6236 (a) for the taxable year in which the claimant, estate, or trust made the purchases or  
6237 payments;

6238 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable  
6239 year; and

6240 (c) before the claimant, estate, or trust [~~claiming~~] claims a tax credit authorized by this  
6241 section.

6242 (4) The commission shall make rules governing what information a claimant, estate, or  
6243 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

6244 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may  
6245 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the

6246 taxpayer's income tax liability for the taxable year.

6247 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in  
6248 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries  
6249 forward a tax credit under Section [63N-2-213](#).

6250 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)  
6251 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax  
6252 credit under Section [63N-2-213](#).

6253 (8) A claimant, estate, or trust may not claim or carry forward a tax credit [~~available~~]  
6254 under this section for a taxable year during which the claimant, estate, or trust claims the  
6255 targeted business income tax credit under Section [59-10-1112](#).

6256 Section 93. Section **59-10-1037** is amended to read:

6257 **59-10-1037. Nonrefundable enterprise zone tax credit.**

6258 (1) As used in this section:

6259 (a) "Business entity" means a claimant, estate, or trust that meets the definition of  
6260 "business entity" as that term is defined in Section [63N-2-202](#).

6261 (b) "Office" means the Governor's Office of Economic Development created in Section  
6262 [63N-1-201](#).

6263 (2) Subject to the provisions of this section, a business entity may claim a  
6264 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

6265 (3) The enterprise zone tax credit under this section is the amount listed as the tax  
6266 credit amount on the tax credit certificate that the office issues to the business entity for the  
6267 taxable year.

6268 (4) A business entity may carry forward a tax credit under this section for a period that  
6269 does not exceed the next three taxable years, if the amount of the tax credit exceeds the  
6270 business entity's tax liability under this chapter for that taxable year.

6271 (5) A business entity may not claim or carry forward a tax credit [~~available~~] under this  
6272 part for a taxable year during which the business entity has claimed the targeted business  
6273 income tax credit [~~available~~] under Section [59-10-1112](#).



6274 (6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim  
6275 Committee shall study the tax credit allowed by this section and make recommendations  
6276 concerning whether the tax credit should be continued, modified, or repealed.

6277 (b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by  
6278 this Subsection (6), the office shall provide by electronic means the following information, if  
6279 available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

6280 (A) the amount of tax credits provided in each development zone;

6281 (B) the number of new full-time employee positions reported to obtain tax credits in  
6282 each development zone;

6283 (C) the amount of tax credits awarded for rehabilitating a building in each development  
6284 zone;

6285 (D) the amount of tax credits awarded for investing in a plant, equipment, or other  
6286 depreciable property in each development zone;

6287 (E) the information related to the tax credit contained in the office's latest report under  
6288 Section 63N-1-301; and

6289 (F) other information that the Office of the Legislative Fiscal Analyst requests.

6290 (ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall  
6291 redact information that identifies a recipient of a tax credit under this section.

6292 (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting  
6293 the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a  
6294 tax credit, the office may file a request with the Revenue and Taxation Interim Committee to  
6295 provide the information described in Subsection (6)(b)(i) in the aggregate for all development  
6296 zones that receive the tax credit under this section.

6297 (c) As part of the study required by this Subsection (6), the Office of the Legislative  
6298 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and  
6299 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the  
6300 office under Subsection (6)(b).

6301 (d) The Revenue and Taxation Interim Committee shall ensure that the

6302 recommendations described in Subsection (6)(a) include an evaluation of:

- 6303 (i) the cost of the tax credit to the state;
- 6304 (ii) the purpose and effectiveness of the tax credit; and
- 6305 (iii) the extent to which the state benefits from the tax credit.

6306 Section 94. Section **59-10-1112** is amended to read:

6307 **59-10-1112. Targeted business income tax credit.**

6308 (1) As used in this section, "business applicant" means the same as that term is defined  
6309 in Section [63N-2-302](#).

6310 (2) A business applicant that is certified and issued a targeted business income tax  
6311 eligibility certificate by the ~~[office]~~ Governor's Office of Economic Development under  
6312 Section [63N-2-304](#) may claim a refundable tax credit in the amount specified on the targeted  
6313 business income tax eligibility certificate.

6314 (3) For a taxable year for which a business applicant claims a targeted business income  
6315 tax credit ~~[available]~~ under this section, the business applicant may not claim or carry forward a  
6316 tax credit ~~[available]~~ under Section [59-7-610](#), Section [59-10-1007](#), or Title 63N, Chapter 2,  
6317 Part 2, Enterprise Zone Act.

6318 Section 95. Section **59-12-102** is amended to read:

6319 **59-12-102. Definitions.**

6320 As used in this chapter:

- 6321 (1) "800 service" means a telecommunications service that:
  - 6322 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
  - 6323 (b) is typically marketed:
    - 6324 (i) under the name 800 toll-free calling;
    - 6325 (ii) under the name 855 toll-free calling;
    - 6326 (iii) under the name 866 toll-free calling;
    - 6327 (iv) under the name 877 toll-free calling;
    - 6328 (v) under the name 888 toll-free calling; or
    - 6329 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

- 6330 Federal Communications Commission.
- 6331 (2) (a) "900 service" means an inbound toll telecommunications service that:
- 6332 (i) a subscriber purchases;
- 6333 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
- 6334 the subscriber's:
- 6335 (A) prerecorded announcement; or
- 6336 (B) live service; and
- 6337 (iii) is typically marketed:
- 6338 (A) under the name 900 service; or
- 6339 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
- 6340 Communications Commission.
- 6341 (b) "900 service" does not include a charge for:
- 6342 (i) a collection service a seller of a telecommunications service provides to a
- 6343 subscriber; or
- 6344 (ii) the following a subscriber sells to the subscriber's customer:
- 6345 (A) a product; or
- 6346 (B) a service.
- 6347 (3) (a) "Admission or user fees" includes season passes.
- 6348 (b) "Admission or user fees" does not include annual membership dues to private
- 6349 organizations.
- 6350 (4) "Affiliate" or "affiliated person" means a person that, with respect to another
- 6351 person:
- 6352 (a) has an ownership interest of more than 5%, whether direct or indirect, in that other
- 6353 person; or
- 6354 (b) is related to the other person because a third person, or a group of third persons who
- 6355 are affiliated persons with respect to each other, holds an ownership interest of more than 5%,
- 6356 whether direct or indirect, in the related persons.
- 6357 (5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on

6358 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax  
6359 Agreement after November 12, 2002.

6360 (6) "Agreement combined tax rate" means the sum of the tax rates:

6361 (a) listed under Subsection (7); and

6362 (b) that are imposed within a local taxing jurisdiction.

6363 (7) "Agreement sales and use tax" means a tax imposed under:

6364 (a) Subsection 59-12-103(2)(a)(i)(A);

6365 (b) Subsection 59-12-103(2)(b)(i);

6366 (c) Subsection 59-12-103(2)(c)(i);

6367 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

6368 (e) Section 59-12-204;

6369 (f) Section 59-12-401;

6370 (g) Section 59-12-402;

6371 (h) Section 59-12-402.1;

6372 (i) Section 59-12-703;

6373 (j) Section 59-12-802;

6374 (k) Section 59-12-804;

6375 (l) Section 59-12-1102;

6376 (m) Section 59-12-1302;

6377 (n) Section 59-12-1402;

6378 (o) Section 59-12-1802;

6379 (p) Section 59-12-2003;

6380 (q) Section 59-12-2103;

6381 (r) Section 59-12-2213;

6382 (s) Section 59-12-2214;

6383 (t) Section 59-12-2215;

6384 (u) Section 59-12-2216;

6385 (v) Section 59-12-2217;

- 6386 (w) Section 59-12-2218;
- 6387 (x) Section 59-12-2219; or
- 6388 (y) Section 59-12-2220.
- 6389 (8) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 6390 (9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 6391 (a) except for:
- 6392 (i) an airline as defined in Section 59-2-102; or
- 6393 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 6394 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 6395 state, of an airline; and
- 6396 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 6397 whether the business entity performs the following in this state:
- 6398 (i) check, diagnose, overhaul, and repair:
- 6399 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 6400 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 6401 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 6402 engine;
- 6403 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 6404 aircraft:
- 6405 (A) an inspection;
- 6406 (B) a repair, including a structural repair or modification;
- 6407 (C) changing landing gear; and
- 6408 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 6409 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 6410 completely apply new paint to the fixed wing turbine powered aircraft; and
- 6411 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 6412 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 6413 authority that certifies the fixed wing turbine powered aircraft.

- 6414 (10) "Alcoholic beverage" means a beverage that:
- 6415 (a) is suitable for human consumption; and
- 6416 (b) contains .5% or more alcohol by volume.
- 6417 (11) "Alternative energy" means:
- 6418 (a) biomass energy;
- 6419 (b) geothermal energy;
- 6420 (c) hydroelectric energy;
- 6421 (d) solar energy;
- 6422 (e) wind energy; or
- 6423 (f) energy that is derived from:
- 6424 (i) coal-to-liquids;
- 6425 (ii) nuclear fuel;
- 6426 (iii) oil-impregnated diatomaceous earth;
- 6427 (iv) oil sands;
- 6428 (v) oil shale;
- 6429 (vi) petroleum coke; or
- 6430 (vii) waste heat from:
- 6431 (A) an industrial facility; or
- 6432 (B) a power station in which an electric generator is driven through a process in which
- 6433 water is heated, turns into steam, and spins a steam turbine.
- 6434 (12) (a) Subject to Subsection (12)(b), "alternative energy electricity production
- 6435 facility" means a facility that:
- 6436 (i) uses alternative energy to produce electricity; and
- 6437 (ii) has a production capacity of two megawatts or greater.
- 6438 (b) A facility is an alternative energy electricity production facility regardless of
- 6439 whether the facility is:
- 6440 (i) connected to an electric grid; or
- 6441 (ii) located on the premises of an electricity consumer.

6442 (13) (a) "Ancillary service" means a service associated with, or incidental to, the  
6443 provision of telecommunications service.

6444 (b) "Ancillary service" includes:

6445 (i) a conference bridging service;

6446 (ii) a detailed communications billing service;

6447 (iii) directory assistance;

6448 (iv) a vertical service; or

6449 (v) a voice mail service.

6450 (14) "Area agency on aging" means the same as that term is defined in Section  
6451 [62A-3-101](#).

6452 (15) "Assisted amusement device" means an amusement device, skill device, or ride  
6453 device that is started and stopped by an individual:

6454 (a) who is not the purchaser or renter of the right to use or operate the amusement  
6455 device, skill device, or ride device; and

6456 (b) at the direction of the seller of the right to use the amusement device, skill device,  
6457 or ride device.

6458 (16) "Assisted cleaning or washing of tangible personal property" means cleaning or  
6459 washing of tangible personal property if the cleaning or washing labor is primarily performed  
6460 by an individual:

6461 (a) who is not the purchaser of the cleaning or washing of the tangible personal  
6462 property; and

6463 (b) at the direction of the seller of the cleaning or washing of the tangible personal  
6464 property.

6465 (17) "Authorized carrier" means:

6466 (a) in the case of vehicles operated over public highways, the holder of credentials  
6467 indicating that the vehicle is or will be operated pursuant to both the International Registration  
6468 Plan and the International Fuel Tax Agreement;

6469 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

6470 certificate or air carrier's operating certificate; or

6471 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
6472 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling  
6473 stock in more than one state.

6474 (18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the  
6475 following that is used as the primary source of energy to produce fuel or electricity:

6476 (i) material from a plant or tree; or

6477 (ii) other organic matter that is available on a renewable basis, including:

6478 (A) slash and brush from forests and woodlands;

6479 (B) animal waste;

6480 (C) waste vegetable oil;

6481 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of  
6482 wastewater residuals, or through the conversion of a waste material through a nonincineration,  
6483 thermal conversion process;

6484 (E) aquatic plants; and

6485 (F) agricultural products.

6486 (b) "Biomass energy" does not include:

6487 (i) black liquor; or

6488 (ii) treated woods.

6489 (19) (a) "Bundled transaction" means the sale of two or more items of tangible personal  
6490 property, products, or services if the tangible personal property, products, or services are:

6491 (i) distinct and identifiable; and

6492 (ii) sold for one nonitemized price.

6493 (b) "Bundled transaction" does not include:

6494 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on  
6495 the basis of the selection by the purchaser of the items of tangible personal property included in  
6496 the transaction;

6497 (ii) the sale of real property;



- 6498 (iii) the sale of services to real property;
- 6499 (iv) the retail sale of tangible personal property and a service if:
- 6500 (A) the tangible personal property:
- 6501 (I) is essential to the use of the service; and
- 6502 (II) is provided exclusively in connection with the service; and
- 6503 (B) the service is the true object of the transaction;
- 6504 (v) the retail sale of two services if:
- 6505 (A) one service is provided that is essential to the use or receipt of a second service;
- 6506 (B) the first service is provided exclusively in connection with the second service; and
- 6507 (C) the second service is the true object of the transaction;
- 6508 (vi) a transaction that includes tangible personal property or a product subject to
- 6509 taxation under this chapter and tangible personal property or a product that is not subject to
- 6510 taxation under this chapter if the:
- 6511 (A) seller's purchase price of the tangible personal property or product subject to
- 6512 taxation under this chapter is de minimis; or
- 6513 (B) seller's sales price of the tangible personal property or product subject to taxation
- 6514 under this chapter is de minimis; and
- 6515 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 6516 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 6517 (A) that retail sale includes:
- 6518 (I) food and food ingredients;
- 6519 (II) a drug;
- 6520 (III) durable medical equipment;
- 6521 (IV) mobility enhancing equipment;
- 6522 (V) an over-the-counter drug;
- 6523 (VI) a prosthetic device; or
- 6524 (VII) a medical supply; and
- 6525 (B) subject to Subsection (19)(f):

6526 (I) the seller's purchase price of the tangible personal property subject to taxation under  
6527 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

6528 (II) the seller's sales price of the tangible personal property subject to taxation under  
6529 this chapter is 50% or less of the seller's total sales price of that retail sale.

6530 (c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a  
6531 service that is distinct and identifiable does not include:

6532 (A) packaging that:

6533 (I) accompanies the sale of the tangible personal property, product, or service; and

6534 (II) is incidental or immaterial to the sale of the tangible personal property, product, or  
6535 service;

6536 (B) tangible personal property, a product, or a service provided free of charge with the  
6537 purchase of another item of tangible personal property, a product, or a service; or

6538 (C) an item of tangible personal property, a product, or a service included in the  
6539 definition of "purchase price."

6540 (ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a  
6541 product, or a service is provided free of charge with the purchase of another item of tangible  
6542 personal property, a product, or a service if the sales price of the purchased item of tangible  
6543 personal property, product, or service does not vary depending on the inclusion of the tangible  
6544 personal property, product, or service provided free of charge.

6545 (d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price  
6546 does not include a price that is separately identified by tangible personal property, product, or  
6547 service on the following, regardless of whether the following is in paper format or electronic  
6548 format:

6549 (A) a binding sales document; or

6550 (B) another supporting sales-related document that is available to a purchaser.

6551 (ii) For purposes of Subsection (19)(d)(i), a binding sales document or another  
6552 supporting sales-related document that is available to a purchaser includes:

6553 (A) a bill of sale;

- 6554 (B) a contract;
  - 6555 (C) an invoice;
  - 6556 (D) a lease agreement;
  - 6557 (E) a periodic notice of rates and services;
  - 6558 (F) a price list;
  - 6559 (G) a rate card;
  - 6560 (H) a receipt; or
  - 6561 (I) a service agreement.
- 6562 (e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal  
6563 property or a product subject to taxation under this chapter is de minimis if:
- 6564 (A) the seller's purchase price of the tangible personal property or product is 10% or  
6565 less of the seller's total purchase price of the bundled transaction; or
  - 6566 (B) the seller's sales price of the tangible personal property or product is 10% or less of  
6567 the seller's total sales price of the bundled transaction.
- 6568 (ii) For purposes of Subsection (19)(b)(vi), a seller:
- 6569 (A) shall use the seller's purchase price or the seller's sales price to determine if the  
6570 purchase price or sales price of the tangible personal property or product subject to taxation  
6571 under this chapter is de minimis; and
  - 6572 (B) may not use a combination of the seller's purchase price and the seller's sales price  
6573 to determine if the purchase price or sales price of the tangible personal property or product  
6574 subject to taxation under this chapter is de minimis.
- 6575 (iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service  
6576 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 6577 (f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of  
6578 the seller's purchase price and the seller's sales price to determine if tangible personal property  
6579 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales  
6580 price of that retail sale.
- 6581 (20) "Certified automated system" means software certified by the governing board of

6582 the agreement that:

6583 (a) calculates the agreement sales and use tax imposed within a local taxing  
6584 jurisdiction:

6585 (i) on a transaction; and

6586 (ii) in the states that are members of the agreement;

6587 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
6588 member of the agreement; and

6589 (c) maintains a record of the transaction described in Subsection (20)(a)(i).

6590 (21) "Certified service provider" means an agent certified:

6591 (a) by the governing board of the agreement; and

6592 (b) to perform a seller's sales and use tax functions for an agreement sales and use tax,  
6593 as outlined in the contract between the governing board of the agreement and the certified  
6594 service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the  
6595 seller's own purchases.

6596 (22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel  
6597 suitable for general use.

6598 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
6599 commission shall make rules:

6600 (i) listing the items that constitute "clothing"; and

6601 (ii) that are consistent with the list of items that constitute "clothing" under the  
6602 agreement.

6603 (23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

6604 (24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
6605 fuels that does not constitute industrial use under Subsection (57) or residential use under  
6606 Subsection (111).

6607 (25) (a) "Common carrier" means a person engaged in or transacting the business of  
6608 transporting passengers, freight, merchandise, or other property for hire within this state.

6609 (b) (i) "Common carrier" does not include a person that, at the time the person is

6610 traveling to or from that person's place of employment, transports a passenger to or from the  
6611 passenger's place of employment.

6612 (ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3,  
6613 Utah Administrative Rulemaking Act, the commission may make rules defining what  
6614 constitutes a person's place of employment.

6615 (c) "Common carrier" does not include a person that provides transportation network  
6616 services, as defined in Section [13-51-102](#).

6617 (26) "Component part" includes:

6618 (a) poultry, dairy, and other livestock feed, and their components;

6619 (b) baling ties and twine used in the baling of hay and straw;

6620 (c) fuel used for providing temperature control of orchards and commercial  
6621 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
6622 off-highway type farm machinery; and

6623 (d) feed, seeds, and seedlings.

6624 (27) "Computer" means an electronic device that accepts information:

6625 (a) (i) in digital form; or

6626 (ii) in a form similar to digital form; and

6627 (b) manipulates that information for a result based on a sequence of instructions.

6628 (28) "Computer software" means a set of coded instructions designed to cause:

6629 (a) a computer to perform a task; or

6630 (b) automatic data processing equipment to perform a task.

6631 (29) "Computer software maintenance contract" means a contract that obligates a seller  
6632 of computer software to provide a customer with:

6633 (a) future updates or upgrades to computer software;

6634 (b) support services with respect to computer software; or

6635 (c) a combination of Subsections (29)(a) and (b).

6636 (30) (a) "Conference bridging service" means an ancillary service that links two or  
6637 more participants of an audio conference call or video conference call.

6638 (b) "Conference bridging service" may include providing a telephone number as part of  
6639 the ancillary service described in Subsection (30)(a).

6640 (c) "Conference bridging service" does not include a telecommunications service used  
6641 to reach the ancillary service described in Subsection (30)(a).

6642 (31) "Construction materials" means any tangible personal property that will be  
6643 converted into real property.

6644 (32) "Delivered electronically" means delivered to a purchaser by means other than  
6645 tangible storage media.

6646 (33) (a) "Delivery charge" means a charge:

6647 (i) by a seller of:

6648 (A) tangible personal property;

6649 (B) a product transferred electronically; or

6650 (C) a service; and

6651 (ii) for preparation and delivery of the tangible personal property, product transferred  
6652 electronically, or services described in Subsection (33)(a)(i) to a location designated by the  
6653 purchaser.

6654 (b) "Delivery charge" includes a charge for the following:

6655 (i) transportation;

6656 (ii) shipping;

6657 (iii) postage;

6658 (iv) handling;

6659 (v) crating; or

6660 (vi) packing.

6661 (34) "Detailed telecommunications billing service" means an ancillary service of  
6662 separately stating information pertaining to individual calls on a customer's billing statement.

6663 (35) "Dietary supplement" means a product, other than tobacco, that:

6664 (a) is intended to supplement the diet;

6665 (b) contains one or more of the following dietary ingredients:

- 6666 (i) a vitamin;
- 6667 (ii) a mineral;
- 6668 (iii) an herb or other botanical;
- 6669 (iv) an amino acid;
- 6670 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 6671 dietary intake; or
- 6672 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 6673 described in Subsections (35)(b)(i) through (v);
- 6674 (c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:
- 6675 (A) tablet form;
- 6676 (B) capsule form;
- 6677 (C) powder form;
- 6678 (D) softgel form;
- 6679 (E) gelcap form; or
- 6680 (F) liquid form; or
- 6681 (ii) if the product is not intended for ingestion in a form described in Subsections
- 6682 (35)(c)(i)(A) through (F), is not represented:
- 6683 (A) as conventional food; and
- 6684 (B) for use as a sole item of:
- 6685 (I) a meal; or
- 6686 (II) the diet; and
- 6687 (d) is required to be labeled as a dietary supplement:
- 6688 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 6689 (ii) as required by 21 C.F.R. Sec. 101.36.
- 6690 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 6691 musical, spoken, or other sounds.
- 6692 (b) "Digital audio work" includes a ringtone.
- 6693 (37) "Digital audio-visual work" means a series of related images which, when shown

6694 in succession, imparts an impression of motion, together with accompanying sounds, if any.

6695 (38) "Digital book" means a work that is generally recognized in the ordinary and usual  
6696 sense as a book.

6697 (39) (a) "Direct mail" means printed material delivered or distributed by United States  
6698 mail or other delivery service:

6699 (i) to:

6700 (A) a mass audience; or

6701 (B) addressees on a mailing list provided:

6702 (I) by a purchaser of the mailing list; or

6703 (II) at the discretion of the purchaser of the mailing list; and

6704 (ii) if the cost of the printed material is not billed directly to the recipients.

6705 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
6706 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

6707 (c) "Direct mail" does not include multiple items of printed material delivered to a  
6708 single address.

6709 (40) "Directory assistance" means an ancillary service of providing:

6710 (a) address information; or

6711 (b) telephone number information.

6712 (41) (a) "Disposable home medical equipment or supplies" means medical equipment  
6713 or supplies that:

6714 (i) cannot withstand repeated use; and

6715 (ii) are purchased by, for, or on behalf of a person other than:

6716 (A) a health care facility as defined in Section 26-21-2;

6717 (B) a health care provider as defined in Section 78B-3-403;

6718 (C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

6719 (D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

6720 (b) "Disposable home medical equipment or supplies" does not include:

6721 (i) a drug;



- 6722 (ii) durable medical equipment;
- 6723 (iii) a hearing aid;
- 6724 (iv) a hearing aid accessory;
- 6725 (v) mobility enhancing equipment; or
- 6726 (vi) tangible personal property used to correct impaired vision, including:
  - 6727 (A) eyeglasses; or
  - 6728 (B) contact lenses.
- 6729 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 6730 commission may by rule define what constitutes medical equipment or supplies.
- 6731 (42) "Drilling equipment manufacturer" means a facility:
  - 6732 (a) located in the state;
  - 6733 (b) with respect to which 51% or more of the manufacturing activities of the facility
  - 6734 consist of manufacturing component parts of drilling equipment;
  - 6735 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
  - 6736 manufacturing process; and
  - 6737 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
  - 6738 manufacturing process.
- 6739 (43) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 6740 compound, substance, or preparation that is:
  - 6741 (i) recognized in:
    - 6742 (A) the official United States Pharmacopoeia;
    - 6743 (B) the official Homeopathic Pharmacopoeia of the United States;
    - 6744 (C) the official National Formulary; or
    - 6745 (D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);
  - 6746 (ii) intended for use in the:
    - 6747 (A) diagnosis of disease;
    - 6748 (B) cure of disease;
    - 6749 (C) mitigation of disease;

- 6750 (D) treatment of disease; or
- 6751 (E) prevention of disease; or
- 6752 (iii) intended to affect:
- 6753 (A) the structure of the body; or
- 6754 (B) any function of the body.
- 6755 (b) "Drug" does not include:
- 6756 (i) food and food ingredients;
- 6757 (ii) a dietary supplement;
- 6758 (iii) an alcoholic beverage; or
- 6759 (iv) a prosthetic device.
- 6760 (44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means
- 6761 equipment that:
- 6762 (i) can withstand repeated use;
- 6763 (ii) is primarily and customarily used to serve a medical purpose;
- 6764 (iii) generally is not useful to a person in the absence of illness or injury; and
- 6765 (iv) is not worn in or on the body.
- 6766 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 6767 equipment described in Subsection (44)(a).
- 6768 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 6769 (45) "Electronic" means:
- 6770 (a) relating to technology; and
- 6771 (b) having:
- 6772 (i) electrical capabilities;
- 6773 (ii) digital capabilities;
- 6774 (iii) magnetic capabilities;
- 6775 (iv) wireless capabilities;
- 6776 (v) optical capabilities;
- 6777 (vi) electromagnetic capabilities; or

- 6778 (vii) capabilities similar to Subsections (45)(b)(i) through (vi).  
6779 (46) "Electronic financial payment service" means an establishment:  
6780 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and  
6781 Clearinghouse Activities, of the 2012 North American Industry Classification System of the  
6782 federal Executive Office of the President, Office of Management and Budget; and  
6783 (b) that performs electronic financial payment services.  
6784 (47) "Employee" means the same as that term is defined in Section [59-10-401](#).  
6785 (48) "Fixed guideway" means a public transit facility that uses and occupies:  
6786 (a) rail for the use of public transit; or  
6787 (b) a separate right-of-way for the use of public transit.  
6788 (49) "Fixed wing turbine powered aircraft" means an aircraft that:  
6789 (a) is powered by turbine engines;  
6790 (b) operates on jet fuel; and  
6791 (c) has wings that are permanently attached to the fuselage of the aircraft.  
6792 (50) "Fixed wireless service" means a telecommunications service that provides radio  
6793 communication between fixed points.  
6794 (51) (a) "Food and food ingredients" means substances:  
6795 (i) regardless of whether the substances are in:  
6796 (A) liquid form;  
6797 (B) concentrated form;  
6798 (C) solid form;  
6799 (D) frozen form;  
6800 (E) dried form; or  
6801 (F) dehydrated form; and  
6802 (ii) that are:  
6803 (A) sold for:  
6804 (I) ingestion by humans; or  
6805 (II) chewing by humans; and

- 6806 (B) consumed for the substance's:
- 6807 (I) taste; or
- 6808 (II) nutritional value.
- 6809 (b) "Food and food ingredients" includes an item described in Subsection (95)(b)(iii).
- 6810 (c) "Food and food ingredients" does not include:
- 6811 (i) an alcoholic beverage;
- 6812 (ii) tobacco; or
- 6813 (iii) prepared food.
- 6814 (52) (a) "Fundraising sales" means sales:
- 6815 (i) (A) made by a school; or
- 6816 (B) made by a school student;
- 6817 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 6818 materials, or provide transportation; and
- 6819 (iii) that are part of an officially sanctioned school activity.
- 6820 (b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity"
- 6821 means a school activity:
- 6822 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 6823 district governing the authorization and supervision of fundraising activities;
- 6824 (ii) that does not directly or indirectly compensate an individual teacher or other
- 6825 educational personnel by direct payment, commissions, or payment in kind; and
- 6826 (iii) the net or gross revenues from which are deposited in a dedicated account
- 6827 controlled by the school or school district.
- 6828 (53) "Geothermal energy" means energy contained in heat that continuously flows
- 6829 outward from the earth that is used as the sole source of energy to produce electricity.
- 6830 (54) "Governing board of the agreement" means the governing board of the agreement
- 6831 that is:
- 6832 (a) authorized to administer the agreement; and
- 6833 (b) established in accordance with the agreement.

- 6834 (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
- 6835 (i) the executive branch of the state, including all departments, institutions, boards,
- 6836 divisions, bureaus, offices, commissions, and committees;
- 6837 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
- 6838 Administrative Office of the Courts, and similar administrative units in the judicial branch;
- 6839 (iii) the legislative branch of the state, including the House of Representatives, the
- 6840 Senate, the Legislative Printing Office, the Office of Legislative Research and General
- 6841 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
- 6842 Analyst;
- 6843 (iv) the National Guard;
- 6844 (v) an independent entity as defined in Section 63E-1-102; or
- 6845 (vi) a political subdivision as defined in Section 17B-1-102.
- 6846 (b) "Governmental entity" does not include the state systems of public and higher
- 6847 education, including:
- 6848 (i) a school;
- 6849 (ii) the State Board of Education;
- 6850 (iii) the State Board of Regents; or
- 6851 (iv) an institution of higher education described in Section 53B-1-102.
- 6852 (56) "Hydroelectric energy" means water used as the sole source of energy to produce
- 6853 electricity.
- 6854 (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 6855 other fuels:
- 6856 (a) in mining or extraction of minerals;
- 6857 (b) in agricultural operations to produce an agricultural product up to the time of
- 6858 harvest or placing the agricultural product into a storage facility, including:
- 6859 (i) commercial greenhouses;
- 6860 (ii) irrigation pumps;
- 6861 (iii) farm machinery;

6862 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered  
6863 under Title 41, Chapter 1a, Part 2, Registration; and

6864 (v) other farming activities;

6865 (c) in manufacturing tangible personal property at an establishment described in:

6866 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
6867 the federal Executive Office of the President, Office of Management and Budget; or

6868 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
6869 American Industry Classification System of the federal Executive Office of the President,  
6870 Office of Management and Budget;

6871 (d) by a scrap recycler if:

6872 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
6873 one or more of the following items into prepared grades of processed materials for use in new  
6874 products:

6875 (A) iron;

6876 (B) steel;

6877 (C) nonferrous metal;

6878 (D) paper;

6879 (E) glass;

6880 (F) plastic;

6881 (G) textile; or

6882 (H) rubber; and

6883 (ii) the new products under Subsection (57)(d)(i) would otherwise be made with  
6884 nonrecycled materials; or

6885 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a  
6886 cogeneration facility as defined in Section 54-2-1.

6887 (58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge  
6888 for installing:

6889 (i) tangible personal property; or

- 6890 (ii) a product transferred electronically.
- 6891 (b) "Installation charge" does not include a charge for:
- 6892 (i) repairs or renovations of:
- 6893 (A) tangible personal property; or
- 6894 (B) a product transferred electronically; or
- 6895 (ii) attaching tangible personal property or a product transferred electronically:
- 6896 (A) to other tangible personal property; and
- 6897 (B) as part of a manufacturing or fabrication process.
- 6898 (59) "Institution of higher education" means an institution of higher education listed in
- 6899 Section [53B-2-101](#).
- 6900 (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
- 6901 personal property or a product transferred electronically for:
- 6902 (i) (A) a fixed term; or
- 6903 (B) an indeterminate term; and
- 6904 (ii) consideration.
- 6905 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
- 6906 amount of consideration may be increased or decreased by reference to the amount realized
- 6907 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
- 6908 Code.
- 6909 (c) "Lease" or "rental" does not include:
- 6910 (i) a transfer of possession or control of property under a security agreement or
- 6911 deferred payment plan that requires the transfer of title upon completion of the required
- 6912 payments;
- 6913 (ii) a transfer of possession or control of property under an agreement that requires the
- 6914 transfer of title:
- 6915 (A) upon completion of required payments; and
- 6916 (B) if the payment of an option price does not exceed the greater of:
- 6917 (I) \$100; or

6918 (II) 1% of the total required payments; or  
6919 (iii) providing tangible personal property along with an operator for a fixed period of  
6920 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
6921 designed.

6922 (d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to  
6923 perform as designed if the operator's duties exceed the:

- 6924 (i) set-up of tangible personal property;
- 6925 (ii) maintenance of tangible personal property; or
- 6926 (iii) inspection of tangible personal property.

6927 (61) "Life science establishment" means an establishment in this state that is classified  
6928 under the following NAICS codes of the 2007 North American Industry Classification System  
6929 of the federal Executive Office of the President, Office of Management and Budget:

- 6930 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 6931 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

6932 Manufacturing; or

6933 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

6934 (62) "Life science research and development facility" means a facility owned, leased,  
6935 or rented by a life science establishment if research and development is performed in 51% or  
6936 more of the total area of the facility.

6937 (63) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
6938 if the tangible storage media is not physically transferred to the purchaser.

6939 (64) "Local taxing jurisdiction" means a:

- 6940 (a) county that is authorized to impose an agreement sales and use tax;
- 6941 (b) city that is authorized to impose an agreement sales and use tax; or
- 6942 (c) town that is authorized to impose an agreement sales and use tax.

6943 (65) "Manufactured home" means the same as that term is defined in Section  
6944 [15A-1-302](#).

6945 (66) "Manufacturing facility" means:



- 6946 (a) an establishment described in:
- 6947 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
6948 the federal Executive Office of the President, Office of Management and Budget; or  
6949 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North  
6950 American Industry Classification System of the federal Executive Office of the President,  
6951 Office of Management and Budget;
- 6952 (b) a scrap recycler if:
- 6953 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
6954 one or more of the following items into prepared grades of processed materials for use in new  
6955 products:
- 6956 (A) iron;
- 6957 (B) steel;
- 6958 (C) nonferrous metal;
- 6959 (D) paper;
- 6960 (E) glass;
- 6961 (F) plastic;
- 6962 (G) textile; or
- 6963 (H) rubber; and
- 6964 (ii) the new products under Subsection (66)(b)(i) would otherwise be made with  
6965 nonrecycled materials; or
- 6966 (c) a cogeneration facility as defined in Section [54-2-1](#) if the cogeneration facility is  
6967 placed in service on or after May 1, 2006.
- 6968 (67) (a) "Marketplace" means a physical or electronic place, platform, or forum where  
6969 tangible personal property, a product transferred electronically, or a service is offered for sale.
- 6970 (b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a  
6971 dedicated sales software application.
- 6972 (68) (a) "Marketplace facilitator" means a person, including an affiliate of the person,  
6973 that enters into a contract, an agreement, or otherwise with sellers, for consideration, to

6974 facilitate the sale of a seller's product through a marketplace that the person owns, operates, or  
6975 controls and that directly or indirectly:

6976 (i) does any of the following:

6977 (A) lists, makes available, or advertises tangible personal property, a product  
6978 transferred electronically, or a service for sale by a marketplace seller on a marketplace that the  
6979 person owns, operates, or controls;

6980 (B) facilitates the sale of a marketplace seller's tangible personal property, product  
6981 transferred electronically, or service by transmitting or otherwise communicating an offer or  
6982 acceptance of a retail sale between the marketplace seller and a purchaser using the  
6983 marketplace;

6984 (C) owns, rents, licenses, makes available, or operates any electronic or physical  
6985 infrastructure or any property, process, method, copyright, trademark, or patent that connects a  
6986 marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal  
6987 property, a product transferred electronically, or a service;

6988 (D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible  
6989 personal property, a product transferred electronically, or a service, regardless of ownership or  
6990 control of the tangible personal property, the product transferred electronically, or the service  
6991 that is the subject of the retail sale;

6992 (E) provides software development or research and development activities related to  
6993 any activity described in this Subsection (68)(a)(i), if the software development or research and  
6994 development activity is directly related to the person's marketplace;

6995 (F) provides or offers fulfillment or storage services for a marketplace seller;

6996 (G) sets prices for the sale of tangible personal property, a product transferred  
6997 electronically, or a service by a marketplace seller;

6998 (H) provides or offers customer service to a marketplace seller or a marketplace seller's  
6999 purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal  
7000 property, a product transferred electronically, or a service sold by a marketplace seller on the  
7001 person's marketplace; or

- 7002 (I) brands or otherwise identifies sales as those of the person; and  
7003 (ii) does any of the following:
- 7004 (A) collects the sales price or purchase price of a retail sale of tangible personal  
7005 property, a product transferred electronically, or a service;
- 7006 (B) provides payment processing services for a retail sale of tangible personal property,  
7007 a product transferred electronically, or a service;
- 7008 (C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing  
7009 fee, a fee for inserting or making available tangible personal property, a product transferred  
7010 electronically, or a service on the person's marketplace, or other consideration for the  
7011 facilitation of a retail sale of tangible personal property, a product transferred electronically, or  
7012 a service, regardless of ownership or control of the tangible personal property, the product  
7013 transferred electronically, or the service that is the subject of the retail sale;
- 7014 (D) through terms and conditions, an agreement, or another arrangement with a third  
7015 person, collects payment from a purchase for a retail sale of tangible personal property, a  
7016 product transferred electronically, or a service and transmits that payment to the marketplace  
7017 seller, regardless of whether the third person receives compensation or other consideration in  
7018 exchange for the service; or
- 7019 (E) provides a virtual currency for a purchaser to use to purchase tangible personal  
7020 property, a product transferred electronically, or service offered for sale.
- 7021 (b) "Marketplace facilitator" does not include a person that only provides payment  
7022 processing services.
- 7023 (69) "Marketplace seller" means a seller that makes one or more retail sales through a  
7024 marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the  
7025 seller is required to be registered to collect and remit the tax under this part.
- 7026 (70) "Member of the immediate family of the producer" means a person who is related  
7027 to a producer described in Subsection [59-12-104\(20\)\(a\)](#) as a:
- 7028 (a) child or stepchild, regardless of whether the child or stepchild is:
- 7029 (i) an adopted child or adopted stepchild; or

- 7030 (ii) a foster child or foster stepchild;
- 7031 (b) grandchild or stepgrandchild;
- 7032 (c) grandparent or stepgrandparent;
- 7033 (d) nephew or stepnephew;
- 7034 (e) niece or stepniece;
- 7035 (f) parent or stepparent;
- 7036 (g) sibling or stepsibling;
- 7037 (h) spouse;
- 7038 (i) person who is the spouse of a person described in Subsections (70)(a) through (g);

7039 or

- 7040 (j) person similar to a person described in Subsections (70)(a) through (i) as
- 7041 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 7042 Administrative Rulemaking Act.

7043 (71) "Mobile home" means the same as that term is defined in Section [15A-1-302](#).

7044 (72) "Mobile telecommunications service" means the same as that term is defined in

7045 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

7046 (73) (a) "Mobile wireless service" means a telecommunications service, regardless of

7047 the technology used, if:

- 7048 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 7049 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 7050 (iii) the origination point described in Subsection (73)(a)(i) and the termination point
- 7051 described in Subsection (73)(a)(ii) are not fixed.

7052 (b) "Mobile wireless service" includes a telecommunications service that is provided

7053 by a commercial mobile radio service provider.

7054 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

7055 commission may by rule define "commercial mobile radio service provider."

7056 (74) (a) Except as provided in Subsection (74)(c), "mobility enhancing equipment"

7057 means equipment that is:

7058 (i) primarily and customarily used to provide or increase the ability to move from one  
7059 place to another;

7060 (ii) appropriate for use in a:

7061 (A) home; or

7062 (B) motor vehicle; and

7063 (iii) not generally used by persons with normal mobility.

7064 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of  
7065 the equipment described in Subsection (74)(a).

7066 (c) "Mobility enhancing equipment" does not include:

7067 (i) a motor vehicle;

7068 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor  
7069 vehicle manufacturer;

7070 (iii) durable medical equipment; or

7071 (iv) a prosthetic device.

7072 (75) "Model 1 seller" means a seller registered under the agreement that has selected a  
7073 certified service provider as the seller's agent to perform the seller's sales and use tax functions  
7074 for agreement sales and use taxes, as outlined in the contract between the governing board of  
7075 the agreement and the certified service provider, other than the seller's obligation under Section  
7076 [59-12-124](#) to remit a tax on the seller's own purchases.

7077 (76) "Model 2 seller" means a seller registered under the agreement that:

7078 (a) except as provided in Subsection (76)(b), has selected a certified automated system  
7079 to perform the seller's sales tax functions for agreement sales and use taxes; and

7080 (b) retains responsibility for remitting all of the sales tax:

7081 (i) collected by the seller; and

7082 (ii) to the appropriate local taxing jurisdiction.

7083 (77) (a) Subject to Subsection (77)(b), "model 3 seller" means a seller registered under  
7084 the agreement that has:

7085 (i) sales in at least five states that are members of the agreement;

- 7086 (ii) total annual sales revenues of at least \$500,000,000;
- 7087 (iii) a proprietary system that calculates the amount of tax:
- 7088 (A) for an agreement sales and use tax; and
- 7089 (B) due to each local taxing jurisdiction; and
- 7090 (iv) entered into a performance agreement with the governing board of the agreement.
- 7091 (b) For purposes of Subsection (77)(a), "model 3 seller" includes an affiliated group of
- 7092 sellers using the same proprietary system.
- 7093 (78) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 7094 model 1 seller, model 2 seller, or model 3 seller.
- 7095 (79) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 7096 (80) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).
- 7097 (81) "Oil sands" means impregnated bituminous sands that:
- 7098 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 7099 other hydrocarbons, or otherwise treated;
- 7100 (b) yield mixtures of liquid hydrocarbon; and
- 7101 (c) require further processing other than mechanical blending before becoming finished
- 7102 petroleum products.
- 7103 (82) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 7104 material that yields petroleum upon heating and distillation.
- 7105 (83) "Optional computer software maintenance contract" means a computer software
- 7106 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 7107 sale of computer software.
- 7108 (84) (a) "Other fuels" means products that burn independently to produce heat or
- 7109 energy.
- 7110 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 7111 personal property.
- 7112 (85) (a) "Paging service" means a telecommunications service that provides
- 7113 transmission of a coded radio signal for the purpose of activating a specific pager.

7114 (b) For purposes of Subsection (85)(a), the transmission of a coded radio signal  
7115 includes a transmission by message or sound.

7116 (86) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

7117 (87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

7118 (88) (a) "Permanently attached to real property" means that for tangible personal  
7119 property attached to real property:

7120 (i) the attachment of the tangible personal property to the real property:

7121 (A) is essential to the use of the tangible personal property; and

7122 (B) suggests that the tangible personal property will remain attached to the real  
7123 property in the same place over the useful life of the tangible personal property; or

7124 (ii) if the tangible personal property is detached from the real property, the detachment  
7125 would:

7126 (A) cause substantial damage to the tangible personal property; or

7127 (B) require substantial alteration or repair of the real property to which the tangible  
7128 personal property is attached.

7129 (b) "Permanently attached to real property" includes:

7130 (i) the attachment of an accessory to the tangible personal property if the accessory is:

7131 (A) essential to the operation of the tangible personal property; and

7132 (B) attached only to facilitate the operation of the tangible personal property;

7133 (ii) a temporary detachment of tangible personal property from real property for a  
7134 repair or renovation if the repair or renovation is performed where the tangible personal  
7135 property and real property are located; or

7136 (iii) property attached to oil, gas, or water pipelines, except for the property listed in  
7137 Subsection (88)(c)(iii) or (iv).

7138 (c) "Permanently attached to real property" does not include:

7139 (i) the attachment of portable or movable tangible personal property to real property if  
7140 that portable or movable tangible personal property is attached to real property only for:

7141 (A) convenience;

- 7142 (B) stability; or
- 7143 (C) for an obvious temporary purpose;
- 7144 (ii) the detachment of tangible personal property from real property except for the
- 7145 detachment described in Subsection (88)(b)(ii);
- 7146 (iii) an attachment of the following tangible personal property to real property if the
- 7147 attachment to real property is only through a line that supplies water, electricity, gas,
- 7148 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 7149 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 7150 (A) a computer;
- 7151 (B) a telephone;
- 7152 (C) a television; or
- 7153 (D) tangible personal property similar to Subsections (88)(c)(iii)(A) through (C) as
- 7154 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 7155 Administrative Rulemaking Act; or
- 7156 (iv) an item listed in Subsection (129)(c).
- 7157 (89) "Person" includes any individual, firm, partnership, joint venture, association,
- 7158 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 7159 municipality, district, or other local governmental entity of the state, or any group or
- 7160 combination acting as a unit.
- 7161 (90) "Place of primary use":
- 7162 (a) for telecommunications service other than mobile telecommunications service,
- 7163 means the street address representative of where the customer's use of the telecommunications
- 7164 service primarily occurs, which shall be:
- 7165 (i) the residential street address of the customer; or
- 7166 (ii) the primary business street address of the customer; or
- 7167 (b) for mobile telecommunications service, means the same as that term is defined in
- 7168 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 7169 (91) (a) "Postpaid calling service" means a telecommunications service a person



- 7170 obtains by making a payment on a call-by-call basis:
- 7171 (i) through the use of a:
- 7172 (A) bank card;
- 7173 (B) credit card;
- 7174 (C) debit card; or
- 7175 (D) travel card; or
- 7176 (ii) by a charge made to a telephone number that is not associated with the origination
- 7177 or termination of the telecommunications service.
- 7178 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
- 7179 service, that would be a prepaid wireless calling service if the service were exclusively a
- 7180 telecommunications service.
- 7181 (92) "Postproduction" means an activity related to the finishing or duplication of a
- 7182 medium described in Subsection [59-12-104\(54\)\(a\)](#).
- 7183 (93) "Prepaid calling service" means a telecommunications service:
- 7184 (a) that allows a purchaser access to telecommunications service that is exclusively
- 7185 telecommunications service;
- 7186 (b) that:
- 7187 (i) is paid for in advance; and
- 7188 (ii) enables the origination of a call using an:
- 7189 (A) access number; or
- 7190 (B) authorization code;
- 7191 (c) that is dialed:
- 7192 (i) manually; or
- 7193 (ii) electronically; and
- 7194 (d) sold in predetermined units or dollars that decline:
- 7195 (i) by a known amount; and
- 7196 (ii) with use.
- 7197 (94) "Prepaid wireless calling service" means a telecommunications service:

- 7198 (a) that provides the right to utilize:
- 7199 (i) mobile wireless service; and
- 7200 (ii) other service that is not a telecommunications service, including:
- 7201 (A) the download of a product transferred electronically;
- 7202 (B) a content service; or
- 7203 (C) an ancillary service;
- 7204 (b) that:
- 7205 (i) is paid for in advance; and
- 7206 (ii) enables the origination of a call using an:
- 7207 (A) access number; or
- 7208 (B) authorization code;
- 7209 (c) that is dialed:
- 7210 (i) manually; or
- 7211 (ii) electronically; and
- 7212 (d) sold in predetermined units or dollars that decline:
- 7213 (i) by a known amount; and
- 7214 (ii) with use.
- 7215 (95) (a) "Prepared food" means:
- 7216 (i) food:
- 7217 (A) sold in a heated state; or
- 7218 (B) heated by a seller;
- 7219 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 7220 item; or
- 7221 (iii) except as provided in Subsection (95)(c), food sold with an eating utensil provided
- 7222 by the seller, including a:
- 7223 (A) plate;
- 7224 (B) knife;
- 7225 (C) fork;

- 7226 (D) spoon;
- 7227 (E) glass;
- 7228 (F) cup;
- 7229 (G) napkin; or
- 7230 (H) straw.
- 7231 (b) "Prepared food" does not include:
- 7232 (i) food that a seller only:
- 7233 (A) cuts;
- 7234 (B) repackages; or
- 7235 (C) pasteurizes; or
- 7236 (ii) (A) the following:
- 7237 (I) raw egg;
- 7238 (II) raw fish;
- 7239 (III) raw meat;
- 7240 (IV) raw poultry; or
- 7241 (V) a food containing an item described in Subsections (95)(b)(ii)(A)(I) through (IV);
- 7242 and
- 7243 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 7244 Food and Drug Administration's Food Code that a consumer cook the items described in
- 7245 Subsection (95)(b)(ii)(A) to prevent food borne illness; or
- 7246 (iii) the following if sold without eating utensils provided by the seller:
- 7247 (A) food and food ingredients sold by a seller if the seller's proper primary
- 7248 classification under the 2002 North American Industry Classification System of the federal
- 7249 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 7250 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 7251 Manufacturing;
- 7252 (B) food and food ingredients sold in an unheated state:
- 7253 (I) by weight or volume; and

- 7254 (II) as a single item; or
- 7255 (C) a bakery item, including:
  - 7256 (I) a bagel;
  - 7257 (II) a bar;
  - 7258 (III) a biscuit;
  - 7259 (IV) bread;
  - 7260 (V) a bun;
  - 7261 (VI) a cake;
  - 7262 (VII) a cookie;
  - 7263 (VIII) a croissant;
  - 7264 (IX) a danish;
  - 7265 (X) a donut;
  - 7266 (XI) a muffin;
  - 7267 (XII) a pastry;
  - 7268 (XIII) a pie;
  - 7269 (XIV) a roll;
  - 7270 (XV) a tart;
  - 7271 (XVI) a torte; or
  - 7272 (XVII) a tortilla.
- 7273 (c) An eating utensil provided by the seller does not include the following used to
- 7274 transport the food:
  - 7275 (i) a container; or
  - 7276 (ii) packaging.
- 7277 (96) "Prescription" means an order, formula, or recipe that is issued:
  - 7278 (a) (i) orally;
  - 7279 (ii) in writing;
  - 7280 (iii) electronically; or
  - 7281 (iv) by any other manner of transmission; and

- 7282 (b) by a licensed practitioner authorized by the laws of a state.
- 7283 (97) (a) Except as provided in Subsection (97)(b)(ii) or (iii), "prewritten computer  
7284 software" means computer software that is not designed and developed:
- 7285 (i) by the author or other creator of the computer software; and  
7286 (ii) to the specifications of a specific purchaser.
- 7287 (b) "Prewritten computer software" includes:
- 7288 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
7289 software is not designed and developed:
- 7290 (A) by the author or other creator of the computer software; and  
7291 (B) to the specifications of a specific purchaser;
- 7292 (ii) computer software designed and developed by the author or other creator of the  
7293 computer software to the specifications of a specific purchaser if the computer software is sold  
7294 to a person other than the purchaser; or
- 7295 (iii) except as provided in Subsection (97)(c), prewritten computer software or a  
7296 prewritten portion of prewritten computer software:
- 7297 (A) that is modified or enhanced to any degree; and  
7298 (B) if the modification or enhancement described in Subsection (97)(b)(iii)(A) is  
7299 designed and developed to the specifications of a specific purchaser.
- 7300 (c) "Prewritten computer software" does not include a modification or enhancement  
7301 described in Subsection (97)(b)(iii) if the charges for the modification or enhancement are:
- 7302 (i) reasonable; and  
7303 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the  
7304 invoice or other statement of price provided to the purchaser at the time of sale or later, as  
7305 demonstrated by:
- 7306 (A) the books and records the seller keeps at the time of the transaction in the regular  
7307 course of business, including books and records the seller keeps at the time of the transaction in  
7308 the regular course of business for nontax purposes;
- 7309 (B) a preponderance of the facts and circumstances at the time of the transaction; and

- 7310 (C) the understanding of all of the parties to the transaction.
- 7311 (98) (a) "Private communications service" means a telecommunications service:
- 7312 (i) that entitles a customer to exclusive or priority use of one or more communications
- 7313 channels between or among termination points; and
- 7314 (ii) regardless of the manner in which the one or more communications channels are
- 7315 connected.
- 7316 (b) "Private communications service" includes the following provided in connection
- 7317 with the use of one or more communications channels:
- 7318 (i) an extension line;
- 7319 (ii) a station;
- 7320 (iii) switching capacity; or
- 7321 (iv) another associated service that is provided in connection with the use of one or
- 7322 more communications channels as defined in Section [59-12-215](#).
- 7323 (99) (a) Except as provided in Subsection (99)(b), "product transferred electronically"
- 7324 means a product transferred electronically that would be subject to a tax under this chapter if
- 7325 that product was transferred in a manner other than electronically.
- 7326 (b) "Product transferred electronically" does not include:
- 7327 (i) an ancillary service;
- 7328 (ii) computer software; or
- 7329 (iii) a telecommunications service.
- 7330 (100) (a) "Prosthetic device" means a device that is worn on or in the body to:
- 7331 (i) artificially replace a missing portion of the body;
- 7332 (ii) prevent or correct a physical deformity or physical malfunction; or
- 7333 (iii) support a weak or deformed portion of the body.
- 7334 (b) "Prosthetic device" includes:
- 7335 (i) parts used in the repairs or renovation of a prosthetic device;
- 7336 (ii) replacement parts for a prosthetic device;
- 7337 (iii) a dental prosthesis; or

- 7338 (iv) a hearing aid.
- 7339 (c) "Prosthetic device" does not include:
- 7340 (i) corrective eyeglasses; or
- 7341 (ii) contact lenses.
- 7342 (101) (a) "Protective equipment" means an item:
- 7343 (i) for human wear; and
- 7344 (ii) that is:
- 7345 (A) designed as protection:
- 7346 (I) to the wearer against injury or disease; or
- 7347 (II) against damage or injury of other persons or property; and
- 7348 (B) not suitable for general use.
- 7349 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 7350 commission shall make rules:
- 7351 (i) listing the items that constitute "protective equipment"; and
- 7352 (ii) that are consistent with the list of items that constitute "protective equipment"
- 7353 under the agreement.
- 7354 (102) (a) For purposes of Subsection [59-12-104\(41\)](#), "publication" means any written
- 7355 or printed matter, other than a photocopy:
- 7356 (i) regardless of:
- 7357 (A) characteristics;
- 7358 (B) copyright;
- 7359 (C) form;
- 7360 (D) format;
- 7361 (E) method of reproduction; or
- 7362 (F) source; and
- 7363 (ii) made available in printed or electronic format.
- 7364 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 7365 commission may by rule define the term "photocopy."

7366 (103) (a) "Purchase price" and "sales price" mean the total amount of consideration:  
7367 (i) valued in money; and  
7368 (ii) for which tangible personal property, a product transferred electronically, or  
7369 services are:  
7370 (A) sold;  
7371 (B) leased; or  
7372 (C) rented.  
7373 (b) "Purchase price" and "sales price" include:  
7374 (i) the seller's cost of the tangible personal property, a product transferred  
7375 electronically, or services sold;  
7376 (ii) expenses of the seller, including:  
7377 (A) the cost of materials used;  
7378 (B) a labor cost;  
7379 (C) a service cost;  
7380 (D) interest;  
7381 (E) a loss;  
7382 (F) the cost of transportation to the seller; or  
7383 (G) a tax imposed on the seller;  
7384 (iii) a charge by the seller for any service necessary to complete the sale; or  
7385 (iv) consideration a seller receives from a person other than the purchaser if:  
7386 (A) (I) the seller actually receives consideration from a person other than the purchaser;  
7387 and  
7388 (II) the consideration described in Subsection (103)(b)(iv)(A)(I) is directly related to a  
7389 price reduction or discount on the sale;  
7390 (B) the seller has an obligation to pass the price reduction or discount through to the  
7391 purchaser;  
7392 (C) the amount of the consideration attributable to the sale is fixed and determinable by  
7393 the seller at the time of the sale to the purchaser; and



7394 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the  
7395 seller to claim a price reduction or discount; and

7396 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,  
7397 coupon, or other documentation with the understanding that the person other than the seller  
7398 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

7399 (II) the purchaser identifies that purchaser to the seller as a member of a group or  
7400 organization allowed a price reduction or discount, except that a preferred customer card that is  
7401 available to any patron of a seller does not constitute membership in a group or organization  
7402 allowed a price reduction or discount; or

7403 (III) the price reduction or discount is identified as a third party price reduction or  
7404 discount on the:

7405 (Aa) invoice the purchaser receives; or

7406 (Bb) certificate, coupon, or other documentation the purchaser presents.

7407 (c) "Purchase price" and "sales price" do not include:

7408 (i) a discount:

7409 (A) in a form including:

7410 (I) cash;

7411 (II) term; or

7412 (III) coupon;

7413 (B) that is allowed by a seller;

7414 (C) taken by a purchaser on a sale; and

7415 (D) that is not reimbursed by a third party; or

7416 (ii) subject to Subsections [59-12-103\(2\)\(e\)\(ii\)](#) and [\(2\)\(f\)\(i\)](#), the following if separately  
7417 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of  
7418 sale or later, as demonstrated by the books and records the seller keeps at the time of the  
7419 transaction in the regular course of business, including books and records the seller keeps at the  
7420 time of the transaction in the regular course of business for nontax purposes, by a  
7421 preponderance of the facts and circumstances at the time of the transaction, and by the

7422 understanding of all of the parties to the transaction:

7423 (A) the following from credit extended on the sale of tangible personal property or  
7424 services:

7425 (I) a carrying charge;

7426 (II) a financing charge; or

7427 (III) an interest charge;

7428 (B) a delivery charge;

7429 (C) an installation charge;

7430 (D) a manufacturer rebate on a motor vehicle; or

7431 (E) a tax or fee legally imposed directly on the consumer.

7432 (104) "Purchaser" means a person to whom:

7433 (a) a sale of tangible personal property is made;

7434 (b) a product is transferred electronically; or

7435 (c) a service is furnished.

7436 (105) "Qualifying enterprise data center" means an establishment that will:

7437 (a) own and operate a data center facility that will house a group of networked server  
7438 computers in one physical location in order to centralize the dissemination, management, and  
7439 storage of data and information;

7440 (b) be located in the state;

7441 (c) be a new operation constructed on or after July 1, 2016;

7442 (d) consist of one or more buildings that total 150,000 or more square feet;

7443 (e) be owned or leased by:

7444 (i) the establishment; or

7445 (ii) a person under common ownership, as defined in Section 59-7-101, of the  
7446 establishment; and

7447 (f) be located on one or more parcels of land that are owned or leased by:

7448 (i) the establishment; or

7449 (ii) a person under common ownership, as defined in Section 59-7-101, of the

7450 establishment.

7451 (106) "Regularly rented" means:

7452 (a) rented to a guest for value three or more times during a calendar year; or

7453 (b) advertised or held out to the public as a place that is regularly rented to guests for  
7454 value.

7455 (107) "Rental" means the same as that term is defined in Subsection (60).

7456 (108) (a) Except as provided in Subsection (108)(b), "repairs or renovations of tangible  
7457 personal property" means:

7458 (i) a repair or renovation of tangible personal property that is not permanently attached  
7459 to real property; or

7460 (ii) attaching tangible personal property or a product transferred electronically to other  
7461 tangible personal property or detaching tangible personal property or a product transferred  
7462 electronically from other tangible personal property if:

7463 (A) the other tangible personal property to which the tangible personal property or  
7464 product transferred electronically is attached or from which the tangible personal property or  
7465 product transferred electronically is detached is not permanently attached to real property; and

7466 (B) the attachment of tangible personal property or a product transferred electronically  
7467 to other tangible personal property or detachment of tangible personal property or a product  
7468 transferred electronically from other tangible personal property is made in conjunction with a  
7469 repair or replacement of tangible personal property or a product transferred electronically.

7470 (b) "Repairs or renovations of tangible personal property" does not include:

7471 (i) attaching prewritten computer software to other tangible personal property if the  
7472 other tangible personal property to which the prewritten computer software is attached is not  
7473 permanently attached to real property; or

7474 (ii) detaching prewritten computer software from other tangible personal property if the  
7475 other tangible personal property from which the prewritten computer software is detached is  
7476 not permanently attached to real property.

7477 (109) "Research and development" means the process of inquiry or experimentation

7478 aimed at the discovery of facts, devices, technologies, or applications and the process of  
7479 preparing those devices, technologies, or applications for marketing.

7480 (110) (a) "Residential telecommunications services" means a telecommunications  
7481 service or an ancillary service that is provided to an individual for personal use:

7482 (i) at a residential address; or

7483 (ii) at an institution, including a nursing home or a school, if the telecommunications  
7484 service or ancillary service is provided to and paid for by the individual residing at the  
7485 institution rather than the institution.

7486 (b) For purposes of Subsection (110)(a)(i), a residential address includes an:

7487 (i) apartment; or

7488 (ii) other individual dwelling unit.

7489 (111) "Residential use" means the use in or around a home, apartment building,  
7490 sleeping quarters, and similar facilities or accommodations.

7491 (112) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
7492 than:

7493 (a) resale;

7494 (b) sublease; or

7495 (c) subrent.

7496 (113) (a) "Retailer" means any person, unless prohibited by the Constitution of the  
7497 United States or federal law, that is engaged in a regularly organized business in tangible  
7498 personal property or any other taxable transaction under Subsection 59-12-103(1), and ~~[who]~~  
7499 that is selling to the user or consumer and not for resale.

7500 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
7501 engaged in the business of selling to users or consumers within the state.

7502 (114) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
7503 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
7504 Subsection 59-12-103(1), for consideration.

7505 (b) "Sale" includes:

- 7506 (i) installment and credit sales;
- 7507 (ii) any closed transaction constituting a sale;
- 7508 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 7509 chapter;
- 7510 (iv) any transaction if the possession of property is transferred but the seller retains the
- 7511 title as security for the payment of the price; and
- 7512 (v) any transaction under which right to possession, operation, or use of any article of
- 7513 tangible personal property is granted under a lease or contract and the transfer of possession
- 7514 would be taxable if an outright sale were made.
- 7515 (115) "Sale at retail" means the same as that term is defined in Subsection (112).
- 7516 (116) "Sale-leaseback transaction" means a transaction by which title to tangible
- 7517 personal property or a product transferred electronically that is subject to a tax under this
- 7518 chapter is transferred:
- 7519 (a) by a purchaser-lessee;
- 7520 (b) to a lessor;
- 7521 (c) for consideration; and
- 7522 (d) if:
- 7523 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
- 7524 of the tangible personal property or product transferred electronically;
- 7525 (ii) the sale of the tangible personal property or product transferred electronically to the
- 7526 lessor is intended as a form of financing:
- 7527 (A) for the tangible personal property or product transferred electronically; and
- 7528 (B) to the purchaser-lessee; and
- 7529 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
- 7530 is required to:
- 7531 (A) capitalize the tangible personal property or product transferred electronically for
- 7532 financial reporting purposes; and
- 7533 (B) account for the lease payments as payments made under a financing arrangement.

- 7534 (117) "Sales price" means the same as that term is defined in Subsection (103).
- 7535 (118) (a) "Sales relating to schools" means the following sales by, amounts paid to, or  
7536 amounts charged by a school:
- 7537 (i) sales that are directly related to the school's educational functions or activities  
7538 including:
- 7539 (A) the sale of:
- 7540 (I) textbooks;
- 7541 (II) textbook fees;
- 7542 (III) laboratory fees;
- 7543 (IV) laboratory supplies; or
- 7544 (V) safety equipment;
- 7545 (B) the sale of a uniform, protective equipment, or sports or recreational equipment  
7546 that:
- 7547 (I) a student is specifically required to wear as a condition of participation in a  
7548 school-related event or school-related activity; and
- 7549 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
7550 place of ordinary clothing;
- 7551 (C) sales of the following if the net or gross revenues generated by the sales are  
7552 deposited into a school district fund or school fund dedicated to school meals:
- 7553 (I) food and food ingredients; or
- 7554 (II) prepared food; or
- 7555 (D) transportation charges for official school activities; or
- 7556 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
7557 event or school-related activity.
- 7558 (b) "Sales relating to schools" does not include:
- 7559 (i) bookstore sales of items that are not educational materials or supplies;
- 7560 (ii) except as provided in Subsection (118)(a)(i)(B):
- 7561 (A) clothing;

- 7562 (B) clothing accessories or equipment;
- 7563 (C) protective equipment; or
- 7564 (D) sports or recreational equipment; or
- 7565 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 7566 event or school-related activity if the amounts paid or charged are passed through to a person:
- 7567 (A) other than a:
- 7568 (I) school;
- 7569 (II) nonprofit organization authorized by a school board or a governing body of a
- 7570 private school to organize and direct a competitive secondary school activity; or
- 7571 (III) nonprofit association authorized by a school board or a governing body of a
- 7572 private school to organize and direct a competitive secondary school activity; and
- 7573 (B) that is required to collect sales and use taxes under this chapter.
- 7574 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 7575 commission may make rules defining the term "passed through."
- 7576 (119) For purposes of this section and Section [59-12-104](#), "school" means:
- 7577 (a) an elementary school or a secondary school that:
- 7578 (i) is a:
- 7579 (A) public school; or
- 7580 (B) private school; and
- 7581 (ii) provides instruction for one or more grades kindergarten through 12; or
- 7582 (b) a public school district.
- 7583 (120) (a) "Seller" means a person that makes a sale, lease, or rental of:
- 7584 (i) tangible personal property;
- 7585 (ii) a product transferred electronically; or
- 7586 (iii) a service.
- 7587 (b) "Seller" includes a marketplace facilitator.
- 7588 (121) (a) "Semiconductor fabricating, processing, research, or development materials"
- 7589 means tangible personal property or a product transferred electronically if the tangible personal

- 7590 property or product transferred electronically is:
- 7591 (i) used primarily in the process of:
- 7592 (A) (I) manufacturing a semiconductor;
- 7593 (II) fabricating a semiconductor; or
- 7594 (III) research or development of a:
- 7595 (Aa) semiconductor; or
- 7596 (Bb) semiconductor manufacturing process; or
- 7597 (B) maintaining an environment suitable for a semiconductor; or
- 7598 (ii) consumed primarily in the process of:
- 7599 (A) (I) manufacturing a semiconductor;
- 7600 (II) fabricating a semiconductor; or
- 7601 (III) research or development of a:
- 7602 (Aa) semiconductor; or
- 7603 (Bb) semiconductor manufacturing process; or
- 7604 (B) maintaining an environment suitable for a semiconductor.
- 7605 (b) "Semiconductor fabricating, processing, research, or development materials"
- 7606 includes:
- 7607 (i) parts used in the repairs or renovations of tangible personal property or a product
- 7608 transferred electronically described in Subsection (121)(a); or
- 7609 (ii) a chemical, catalyst, or other material used to:
- 7610 (A) produce or induce in a semiconductor a:
- 7611 (I) chemical change; or
- 7612 (II) physical change;
- 7613 (B) remove impurities from a semiconductor; or
- 7614 (C) improve the marketable condition of a semiconductor.
- 7615 (122) "Senior citizen center" means a facility having the primary purpose of providing
- 7616 services to the aged as defined in Section [62A-3-101](#).
- 7617 (123) (a) Subject to Subsections (123)(b) and (c), "short-term lodging consumable"



7618 means tangible personal property that:

7619 (i) a business that provides accommodations and services described in Subsection

7620 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services

7621 to a purchaser;

7622 (ii) is intended to be consumed by the purchaser; and

7623 (iii) is:

7624 (A) included in the purchase price of the accommodations and services; and

7625 (B) not separately stated on an invoice, bill of sale, or other similar document provided

7626 to the purchaser.

7627 (b) "Short-term lodging consumable" includes:

7628 (i) a beverage;

7629 (ii) a brush or comb;

7630 (iii) a cosmetic;

7631 (iv) a hair care product;

7632 (v) lotion;

7633 (vi) a magazine;

7634 (vii) makeup;

7635 (viii) a meal;

7636 (ix) mouthwash;

7637 (x) nail polish remover;

7638 (xi) a newspaper;

7639 (xii) a notepad;

7640 (xiii) a pen;

7641 (xiv) a pencil;

7642 (xv) a razor;

7643 (xvi) saline solution;

7644 (xvii) a sewing kit;

7645 (xviii) shaving cream;

- 7646 (xix) a shoe shine kit;
- 7647 (xx) a shower cap;
- 7648 (xxi) a snack item;
- 7649 (xxii) soap;
- 7650 (xxiii) toilet paper;
- 7651 (xxiv) a toothbrush;
- 7652 (xxv) toothpaste; or
- 7653 (xxvi) an item similar to Subsections (123)(b)(i) through (xxv) as the commission may
- 7654 provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 7655 Rulemaking Act.
- 7656 (c) "Short-term lodging consumable" does not include:
- 7657 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 7658 property to be reused; or
- 7659 (ii) a product transferred electronically.
- 7660 (124) "Simplified electronic return" means the electronic return:
- 7661 (a) described in Section 318(C) of the agreement; and
- 7662 (b) approved by the governing board of the agreement.
- 7663 (125) "Solar energy" means the sun used as the sole source of energy for producing
- 7664 electricity.
- 7665 (126) (a) "Sports or recreational equipment" means an item:
- 7666 (i) designed for human use; and
- 7667 (ii) that is:
- 7668 (A) worn in conjunction with:
- 7669 (I) an athletic activity; or
- 7670 (II) a recreational activity; and
- 7671 (B) not suitable for general use.
- 7672 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 7673 commission shall make rules:

7674 (i) listing the items that constitute "sports or recreational equipment"; and  
7675 (ii) that are consistent with the list of items that constitute "sports or recreational  
7676 equipment" under the agreement.

7677 (127) "State" means the state of Utah, its departments, and agencies.

7678 (128) "Storage" means any keeping or retention of tangible personal property or any  
7679 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
7680 sale in the regular course of business.

7681 (129) (a) Except as provided in Subsection (129)(d) or (e), "tangible personal property"  
7682 means personal property that:

7683 (i) may be:

7684 (A) seen;

7685 (B) weighed;

7686 (C) measured;

7687 (D) felt; or

7688 (E) touched; or

7689 (ii) is in any manner perceptible to the senses.

7690 (b) "Tangible personal property" includes:

7691 (i) electricity;

7692 (ii) water;

7693 (iii) gas;

7694 (iv) steam; or

7695 (v) prewritten computer software, regardless of the manner in which the prewritten  
7696 computer software is transferred.

7697 (c) "Tangible personal property" includes the following regardless of whether the item  
7698 is attached to real property:

7699 (i) a dishwasher;

7700 (ii) a dryer;

7701 (iii) a freezer;

- 7702 (iv) a microwave;
- 7703 (v) a refrigerator;
- 7704 (vi) a stove;
- 7705 (vii) a washer; or
- 7706 (viii) an item similar to Subsections (129)(c)(i) through (vii) as determined by the
- 7707 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 7708 Rulemaking Act.
- 7709 (d) "Tangible personal property" does not include a product that is transferred
- 7710 electronically.
- 7711 (e) "Tangible personal property" does not include the following if attached to real
- 7712 property, regardless of whether the attachment to real property is only through a line that
- 7713 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 7714 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 7715 Rulemaking Act:
- 7716 (i) a hot water heater;
- 7717 (ii) a water filtration system; or
- 7718 (iii) a water softener system.
- 7719 (130) (a) "Telecommunications enabling or facilitating equipment, machinery, or
- 7720 software" means an item listed in Subsection (130)(b) if that item is purchased or leased
- 7721 primarily to enable or facilitate one or more of the following to function:
- 7722 (i) telecommunications switching or routing equipment, machinery, or software; or
- 7723 (ii) telecommunications transmission equipment, machinery, or software.
- 7724 (b) The following apply to Subsection (130)(a):
- 7725 (i) a pole;
- 7726 (ii) software;
- 7727 (iii) a supplementary power supply;
- 7728 (iv) temperature or environmental equipment or machinery;
- 7729 (v) test equipment;

7730 (vi) a tower; or

7731 (vii) equipment, machinery, or software that functions similarly to an item listed in  
7732 Subsections (130)(b)(i) through (vi) as determined by the commission by rule made in  
7733 accordance with Subsection (130)(c).

7734 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7735 commission may by rule define what constitutes equipment, machinery, or software that  
7736 functions similarly to an item listed in Subsections (130)(b)(i) through (vi).

7737 (131) "Telecommunications equipment, machinery, or software required for 911  
7738 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.  
7739 Sec. 20.18.

7740 (132) "Telecommunications maintenance or repair equipment, machinery, or software"  
7741 means equipment, machinery, or software purchased or leased primarily to maintain or repair  
7742 one or more of the following, regardless of whether the equipment, machinery, or software is  
7743 purchased or leased as a spare part or as an upgrade or modification to one or more of the  
7744 following:

7745 (a) telecommunications enabling or facilitating equipment, machinery, or software;

7746 (b) telecommunications switching or routing equipment, machinery, or software; or

7747 (c) telecommunications transmission equipment, machinery, or software.

7748 (133) (a) "Telecommunications service" means the electronic conveyance, routing, or  
7749 transmission of audio, data, video, voice, or any other information or signal to a point, or  
7750 among or between points.

7751 (b) "Telecommunications service" includes:

7752 (i) an electronic conveyance, routing, or transmission with respect to which a computer  
7753 processing application is used to act:

7754 (A) on the code, form, or protocol of the content;

7755 (B) for the purpose of electronic conveyance, routing, or transmission; and

7756 (C) regardless of whether the service:

7757 (I) is referred to as voice over Internet protocol service; or

- 7758 (II) is classified by the Federal Communications Commission as enhanced or value  
7759 added;
- 7760 (ii) an 800 service;
  - 7761 (iii) a 900 service;
  - 7762 (iv) a fixed wireless service;
  - 7763 (v) a mobile wireless service;
  - 7764 (vi) a postpaid calling service;
  - 7765 (vii) a prepaid calling service;
  - 7766 (viii) a prepaid wireless calling service; or
  - 7767 (ix) a private communications service.
- 7768 (c) "Telecommunications service" does not include:
- 7769 (i) advertising, including directory advertising;
  - 7770 (ii) an ancillary service;
  - 7771 (iii) a billing and collection service provided to a third party;
  - 7772 (iv) a data processing and information service if:
    - 7773 (A) the data processing and information service allows data to be:
      - 7774 (I) (Aa) acquired;
      - 7775 (Bb) generated;
      - 7776 (Cc) processed;
      - 7777 (Dd) retrieved; or
      - 7778 (Ee) stored; and
    - 7779 (II) delivered by an electronic transmission to a purchaser; and
  - 7780 (B) the purchaser's primary purpose for the underlying transaction is the processed data  
7781 or information;
  - 7782 (v) installation or maintenance of the following on a customer's premises:
    - 7783 (A) equipment; or
    - 7784 (B) wiring;
  - 7785 (vi) Internet access service;

- 7786 (vii) a paging service;
- 7787 (viii) a product transferred electronically, including:
- 7788 (A) music;
- 7789 (B) reading material;
- 7790 (C) a ring tone;
- 7791 (D) software; or
- 7792 (E) video;
- 7793 (ix) a radio and television audio and video programming service:
- 7794 (A) regardless of the medium; and
- 7795 (B) including:
- 7796 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 7797 programming service by a programming service provider;
- 7798 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 7799 (III) audio and video programming services delivered by a commercial mobile radio
- 7800 service provider as defined in 47 C.F.R. Sec. 20.3;
- 7801 (x) a value-added nonvoice data service; or
- 7802 (xi) tangible personal property.
- 7803 (134) (a) "Telecommunications service provider" means a person that:
- 7804 (i) owns, controls, operates, or manages a telecommunications service; and
- 7805 (ii) engages in an activity described in Subsection (134)(a)(i) for the shared use with or
- 7806 resale to any person of the telecommunications service.
- 7807 (b) A person described in Subsection (134)(a) is a telecommunications service provider
- 7808 whether or not the Public Service Commission of Utah regulates:
- 7809 (i) that person; or
- 7810 (ii) the telecommunications service that the person owns, controls, operates, or
- 7811 manages.
- 7812 (135) (a) "Telecommunications switching or routing equipment, machinery, or
- 7813 software" means an item listed in Subsection (135)(b) if that item is purchased or leased

7814 primarily for switching or routing:

- 7815 (i) an ancillary service;
- 7816 (ii) data communications;
- 7817 (iii) voice communications; or
- 7818 (iv) telecommunications service.

7819 (b) The following apply to Subsection (135)(a):

- 7820 (i) a bridge;
- 7821 (ii) a computer;
- 7822 (iii) a cross connect;
- 7823 (iv) a modem;
- 7824 (v) a multiplexer;
- 7825 (vi) plug in circuitry;
- 7826 (vii) a router;
- 7827 (viii) software;
- 7828 (ix) a switch; or

7829 (x) equipment, machinery, or software that functions similarly to an item listed in  
7830 Subsections (135)(b)(i) through (ix) as determined by the commission by rule made in  
7831 accordance with Subsection (135)(c).

7832 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7833 commission may by rule define what constitutes equipment, machinery, or software that  
7834 functions similarly to an item listed in Subsections (135)(b)(i) through (ix).

7835 (136) (a) "Telecommunications transmission equipment, machinery, or software"  
7836 means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for  
7837 sending, receiving, or transporting:

- 7838 (i) an ancillary service;
- 7839 (ii) data communications;
- 7840 (iii) voice communications; or
- 7841 (iv) telecommunications service.



- 7842 (b) The following apply to Subsection (136)(a):
- 7843 (i) an amplifier;
- 7844 (ii) a cable;
- 7845 (iii) a closure;
- 7846 (iv) a conduit;
- 7847 (v) a controller;
- 7848 (vi) a duplexer;
- 7849 (vii) a filter;
- 7850 (viii) an input device;
- 7851 (ix) an input/output device;
- 7852 (x) an insulator;
- 7853 (xi) microwave machinery or equipment;
- 7854 (xii) an oscillator;
- 7855 (xiii) an output device;
- 7856 (xiv) a pedestal;
- 7857 (xv) a power converter;
- 7858 (xvi) a power supply;
- 7859 (xvii) a radio channel;
- 7860 (xviii) a radio receiver;
- 7861 (xix) a radio transmitter;
- 7862 (xx) a repeater;
- 7863 (xxi) software;
- 7864 (xxii) a terminal;
- 7865 (xxiii) a timing unit;
- 7866 (xxiv) a transformer;
- 7867 (xxv) a wire; or
- 7868 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 7869 Subsections (136)(b)(i) through (xxv) as determined by the commission by rule made in

7870 accordance with Subsection (136)(c).

7871 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
7872 commission may by rule define what constitutes equipment, machinery, or software that  
7873 functions similarly to an item listed in Subsections (136)(b)(i) through (xxv).

7874 (137) (a) "Textbook for a higher education course" means a textbook or other printed  
7875 material that is required for a course:

- 7876 (i) offered by an institution of higher education; and
- 7877 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 7878 (b) "Textbook for a higher education course" includes a textbook in electronic format.

7879 (138) "Tobacco" means:

- 7880 (a) a cigarette;
- 7881 (b) a cigar;
- 7882 (c) chewing tobacco;
- 7883 (d) pipe tobacco; or
- 7884 (e) any other item that contains tobacco.

7885 (139) "Unassisted amusement device" means an amusement device, skill device, or  
7886 ride device that is started and stopped by the purchaser or renter of the right to use or operate  
7887 the amusement device, skill device, or ride device.

7888 (140) (a) "Use" means the exercise of any right or power over tangible personal  
7889 property, a product transferred electronically, or a service under Subsection [59-12-103\(1\)](#),  
7890 incident to the ownership or the leasing of that tangible personal property, product transferred  
7891 electronically, or service.

7892 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal  
7893 property, a product transferred electronically, or a service in the regular course of business and  
7894 held for resale.

7895 (141) "Value-added nonvoice data service" means a service:

- 7896 (a) that otherwise meets the definition of a telecommunications service except that a  
7897 computer processing application is used to act primarily for a purpose other than conveyance,

7898 routing, or transmission; and

7899 (b) with respect to which a computer processing application is used to act on data or  
7900 information:

- 7901 (i) code;
- 7902 (ii) content;
- 7903 (iii) form; or
- 7904 (iv) protocol.

7905 (142) (a) Subject to Subsection (142)(b), "vehicle" means the following that are  
7906 required to be titled, registered, or titled and registered:

- 7907 (i) an aircraft as defined in Section 72-10-102;
- 7908 (ii) a vehicle as defined in Section 41-1a-102;
- 7909 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 7910 (iv) a vessel as defined in Section 41-1a-102.

7911 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 7912 (i) a vehicle described in Subsection (142)(a); or
- 7913 (ii) (A) a locomotive;
- 7914 (B) a freight car;
- 7915 (C) railroad work equipment; or
- 7916 (D) other railroad rolling stock.

7917 (143) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
7918 exchanging a vehicle as defined in Subsection (142).

7919 (144) (a) "Vertical service" means an ancillary service that:

- 7920 (i) is offered in connection with one or more telecommunications services; and
- 7921 (ii) offers an advanced calling feature that allows a customer to:
  - 7922 (A) identify a caller; and
  - 7923 (B) manage multiple calls and call connections.

7924 (b) "Vertical service" includes an ancillary service that allows a customer to manage a  
7925 conference bridging service.

7926 (145) (a) "Voice mail service" means an ancillary service that enables a customer to  
7927 receive, send, or store a recorded message.

7928 (b) "Voice mail service" does not include a vertical service that a customer is required  
7929 to have in order to utilize a voice mail service.

7930 (146) (a) Except as provided in Subsection (146)(b), "waste energy facility" means a  
7931 facility that generates electricity:

7932 (i) using as the primary source of energy waste materials that would be placed in a  
7933 landfill or refuse pit if it were not used to generate electricity, including:

7934 (A) tires;

7935 (B) waste coal;

7936 (C) oil shale; or

7937 (D) municipal solid waste; and

7938 (ii) in amounts greater than actually required for the operation of the facility.

7939 (b) "Waste energy facility" does not include a facility that incinerates:

7940 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

7941 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

7942 (147) "Watercraft" means a vessel as defined in Section [73-18-2](#).

7943 (148) "Wind energy" means wind used as the sole source of energy to produce  
7944 electricity.

7945 (149) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
7946 location by the United States Postal Service.

7947 Section 96. Section **59-12-104** is amended to read:

7948 **59-12-104. Exemptions.**

7949 Exemptions from the taxes imposed by this chapter are as follows:

7950 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
7951 under Chapter 13, Motor and Special Fuel Tax Act;

7952 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political  
7953 subdivisions; however, this exemption does not apply to sales of:

- 7954 (a) construction materials except:
- 7955 (i) construction materials purchased by or on behalf of institutions of the public  
7956 education system as defined in Utah Constitution, Article X, Section 2, provided the  
7957 construction materials are clearly identified and segregated and installed or converted to real  
7958 property which is owned by institutions of the public education system; and
- 7959 (ii) construction materials purchased by the state, its institutions, or its political  
7960 subdivisions which are installed or converted to real property by employees of the state, its  
7961 institutions, or its political subdivisions; or
- 7962 (b) tangible personal property in connection with the construction, operation,  
7963 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
7964 providing additional project capacity, as defined in Section 11-13-103;
- 7965 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 7966 (i) the proceeds of each sale do not exceed \$1; and
- 7967 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
7968 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 7969 (b) Subsection (3)(a) applies to:
- 7970 (i) food and food ingredients; or
- 7971 (ii) prepared food;
- 7972 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 7973 (i) alcoholic beverages;
- 7974 (ii) food and food ingredients; or
- 7975 (iii) prepared food;
- 7976 (b) sales of tangible personal property or a product transferred electronically:
- 7977 (i) to a passenger;
- 7978 (ii) by a commercial airline carrier; and
- 7979 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 7980 (c) services related to Subsection (4)(a) or (b);
- 7981 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

7982 and equipment:

7983 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002  
7984 North American Industry Classification System of the federal Executive Office of the  
7985 President, Office of Management and Budget; and

7986 (II) for:

7987 (Aa) installation in an aircraft, including services relating to the installation of parts or  
7988 equipment in the aircraft;

7989 (Bb) renovation of an aircraft; or

7990 (Cc) repair of an aircraft; or

7991 (B) for installation in an aircraft operated by a common carrier in interstate or foreign  
7992 commerce; or

7993 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an  
7994 aircraft operated by a common carrier in interstate or foreign commerce; and

7995 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
7996 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
7997 refund:

7998 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

7999 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

8000 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
8001 the sale prior to filing for the refund;

8002 (iv) for sales and use taxes paid under this chapter on the sale;

8003 (v) in accordance with Section 59-1-1410; and

8004 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
8005 the person files for the refund on or before September 30, 2011;

8006 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
8007 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
8008 exhibitor, distributor, or commercial television or radio broadcaster;

8009 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of

8010 cleaning or washing of tangible personal property if the cleaning or washing of the tangible  
8011 personal property is not assisted cleaning or washing of tangible personal property;

8012 (b) if a seller that sells at the same business location assisted cleaning or washing of  
8013 tangible personal property and cleaning or washing of tangible personal property that is not  
8014 assisted cleaning or washing of tangible personal property, the exemption described in  
8015 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
8016 or washing of the tangible personal property; and

8017 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
8018 Utah Administrative Rulemaking Act, the commission may make rules:

8019 (i) governing the circumstances under which sales are at the same business location;  
8020 and

8021 (ii) establishing the procedures and requirements for a seller to separately account for  
8022 sales of assisted cleaning or washing of tangible personal property;

8023 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
8024 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are  
8025 fulfilled;

8026 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
8027 this state if the vehicle is:

8028 (a) not registered in this state; and

8029 (b) (i) not used in this state; or

8030 (ii) used in this state:

8031 (A) if the vehicle is not used to conduct business, for a time period that does not  
8032 exceed the longer of:

8033 (I) 30 days in any calendar year; or

8034 (II) the time period necessary to transport the vehicle to the borders of this state; or

8035 (B) if the vehicle is used to conduct business, for the time period necessary to transport  
8036 the vehicle to the borders of this state;

8037 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

- 8038 (i) the item is intended for human use; and
- 8039 (ii) (A) a prescription was issued for the item; or
- 8040 (B) the item was purchased by a hospital or other medical facility; and
- 8041 (b) (i) Subsection (10)(a) applies to:
- 8042 (A) a drug;
- 8043 (B) a syringe; or
- 8044 (C) a stoma supply; and
- 8045 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 8046 commission may by rule define the terms:
- 8047 (A) "syringe"; or
- 8048 (B) "stoma supply";
- 8049 (11) purchases or leases exempt under Section [19-12-201](#);
- 8050 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 8051 (i) the following if the item described in Subsection (12)(c) is not available to the
- 8052 general public:
- 8053 (A) a church; or
- 8054 (B) a charitable institution; or
- 8055 (ii) an institution of higher education if:
- 8056 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 8057 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 8058 offered by the institution of higher education; or
- 8059 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 8060 (i) a medical facility; or
- 8061 (ii) a nursing facility; and
- 8062 (c) Subsections (12)(a) and (b) apply to:
- 8063 (i) food and food ingredients;
- 8064 (ii) prepared food; or
- 8065 (iii) alcoholic beverages;



8066 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property  
8067 or a product transferred electronically by a person:

8068 (i) regardless of the number of transactions involving the sale of that tangible personal  
8069 property or product transferred electronically by that person; and

8070 (ii) not regularly engaged in the business of selling that type of tangible personal  
8071 property or product transferred electronically;

8072 (b) this Subsection (13) does not apply if:

8073 (i) the sale is one of a series of sales of a character to indicate that the person is  
8074 regularly engaged in the business of selling that type of tangible personal property or product  
8075 transferred electronically;

8076 (ii) the person holds that person out as regularly engaged in the business of selling that  
8077 type of tangible personal property or product transferred electronically;

8078 (iii) the person sells an item of tangible personal property or product transferred  
8079 electronically that the person purchased as a sale that is exempt under Subsection (25); or

8080 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
8081 this state in which case the tax is based upon:

8082 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
8083 sold; or

8084 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
8085 value of the vehicle or vessel being sold at the time of the sale as determined by the  
8086 commission; and

8087 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8088 commission shall make rules establishing the circumstances under which:

8089 (i) a person is regularly engaged in the business of selling a type of tangible personal  
8090 property or product transferred electronically;

8091 (ii) a sale of tangible personal property or a product transferred electronically is one of  
8092 a series of sales of a character to indicate that a person is regularly engaged in the business of  
8093 selling that type of tangible personal property or product transferred electronically; or

8094 (iii) a person holds that person out as regularly engaged in the business of selling a type  
8095 of tangible personal property or product transferred electronically;

8096 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
8097 operating repair or replacement parts, or materials, except for office equipment or office  
8098 supplies, by:

8099 (a) a manufacturing facility that:

8100 (i) is located in the state; and

8101 (ii) uses or consumes the machinery, equipment, normal operating repair or  
8102 replacement parts, or materials:

8103 (A) in the manufacturing process to manufacture an item sold as tangible personal  
8104 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
8105 Utah Administrative Rulemaking Act; or

8106 (B) for a scrap recycler, to process an item sold as tangible personal property, as the  
8107 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
8108 Administrative Rulemaking Act;

8109 (b) an establishment, as the commission defines that term in accordance with Title  
8110 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

8111 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
8112 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
8113 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
8114 2002 North American Industry Classification System of the federal Executive Office of the  
8115 President, Office of Management and Budget;

8116 (ii) is located in the state; and

8117 (iii) uses or consumes the machinery, equipment, normal operating repair or  
8118 replacement parts, or materials in:

8119 (A) the production process to produce an item sold as tangible personal property, as the  
8120 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah  
8121 Administrative Rulemaking Act;

8122 (B) research and development, as the commission may define that phrase in accordance  
8123 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

8124 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
8125 produced from mining;

8126 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
8127 mining; or

8128 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

8129 (c) an establishment, as the commission defines that term in accordance with Title 63G,  
8130 Chapter 3, Utah Administrative Rulemaking Act, that:

8131 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North  
8132 American Industry Classification System of the federal Executive Office of the President,  
8133 Office of Management and Budget;

8134 (ii) is located in the state; and

8135 (iii) uses or consumes the machinery, equipment, normal operating repair or  
8136 replacement parts, or materials in the operation of the web search portal;

8137 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

8138 (i) tooling;

8139 (ii) special tooling;

8140 (iii) support equipment;

8141 (iv) special test equipment; or

8142 (v) parts used in the repairs or renovations of tooling or equipment described in  
8143 Subsections (15)(a)(i) through (iv); and

8144 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

8145 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
8146 performance of any aerospace or electronics industry contract with the United States  
8147 government or any subcontract under that contract; and

8148 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
8149 title to the tooling, equipment, or parts is vested in the United States government as evidenced

8150 by:

8151 (A) a government identification tag placed on the tooling, equipment, or parts; or

8152 (B) listing on a government-approved property record if placing a government

8153 identification tag on the tooling, equipment, or parts is impractical;

8154 (16) sales of newspapers or newspaper subscriptions;

8155 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

8156 product transferred electronically traded in as full or part payment of the purchase price, except

8157 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

8158 trade-ins are limited to other vehicles only, and the tax is based upon:

8159 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

8160 vehicle being traded in; or

8161 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

8162 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

8163 commission; and

8164 (b) Subsection (17)(a) does not apply to the following items of tangible personal

8165 property or products transferred electronically traded in as full or part payment of the purchase

8166 price:

8167 (i) money;

8168 (ii) electricity;

8169 (iii) water;

8170 (iv) gas; or

8171 (v) steam;

8172 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

8173 or a product transferred electronically used or consumed primarily and directly in farming

8174 operations, regardless of whether the tangible personal property or product transferred

8175 electronically:

8176 (A) becomes part of real estate; or

8177 (B) is installed by a:

- 8178 (I) farmer;
- 8179 (II) contractor; or
- 8180 (III) subcontractor; or
- 8181 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
- 8182 product transferred electronically if the tangible personal property or product transferred
- 8183 electronically is exempt under Subsection (18)(a)(i); and
- 8184 (b) amounts paid or charged for the following are subject to the taxes imposed by this
- 8185 chapter:
- 8186 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
- 8187 supplies if used in a manner that is incidental to farming; and
- 8188 (B) tangible personal property that is considered to be used in a manner that is
- 8189 incidental to farming includes:
- 8190 (I) hand tools; or
- 8191 (II) maintenance and janitorial equipment and supplies;
- 8192 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 8193 transferred electronically if the tangible personal property or product transferred electronically
- 8194 is used in an activity other than farming; and
- 8195 (B) tangible personal property or a product transferred electronically that is considered
- 8196 to be used in an activity other than farming includes:
- 8197 (I) office equipment and supplies; or
- 8198 (II) equipment and supplies used in:
- 8199 (Aa) the sale or distribution of farm products;
- 8200 (Bb) research; or
- 8201 (Cc) transportation; or
- 8202 (iii) a vehicle required to be registered by the laws of this state during the period
- 8203 ending two years after the date of the vehicle's purchase;
- 8204 (19) sales of hay;
- 8205 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

8206 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
8207 garden, farm, or other agricultural produce is sold by:

8208 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
8209 agricultural produce;

8210 (b) an employee of the producer described in Subsection (20)(a); or

8211 (c) a member of the immediate family of the producer described in Subsection (20)(a);

8212 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
8213 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

8214 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
8215 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
8216 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
8217 manufacturer, processor, wholesaler, or retailer;

8218 (23) a product stored in the state for resale;

8219 (24) (a) purchases of a product if:

8220 (i) the product is:

8221 (A) purchased outside of this state;

8222 (B) brought into this state:

8223 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

8224 (II) by a nonresident person who is not living or working in this state at the time of the  
8225 purchase;

8226 (C) used for the personal use or enjoyment of the nonresident person described in  
8227 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

8228 (D) not used in conducting business in this state; and

8229 (ii) for:

8230 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
8231 the product for a purpose for which the product is designed occurs outside of this state;

8232 (B) a boat, the boat is registered outside of this state; or

8233 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

8234 outside of this state;

8235 (b) the exemption provided for in Subsection (24)(a) does not apply to:

8236 (i) a lease or rental of a product; or

8237 (ii) a sale of a vehicle exempt under Subsection (33); and

8238 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

8239 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

8240 following:

8241 (i) conducting business in this state if that phrase has the same meaning in this

8242 Subsection (24) as in Subsection (63);

8243 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

8244 as in Subsection (63); or

8245 (iii) a purpose for which a product is designed if that phrase has the same meaning in

8246 this Subsection (24) as in Subsection (63);

8247 (25) a product purchased for resale in the regular course of business, either in its

8248 original form or as an ingredient or component part of a manufactured or compounded product;

8249 (26) a product upon which a sales or use tax was paid to some other state, or one of its

8250 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

8251 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

8252 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

8253 Act;

8254 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

8255 person for use in compounding a service taxable under the subsections;

8256 (28) purchases made in accordance with the special supplemental nutrition program for

8257 women, infants, and children established in 42 U.S.C. Sec. 1786;

8258 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other

8259 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code

8260 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of

8261 the President, Office of Management and Budget;

- 8262 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
8263 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:  
8264 (a) not registered in this state; and  
8265 (b) (i) not used in this state; or  
8266 (ii) used in this state:  
8267 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
8268 time period that does not exceed the longer of:  
8269 (I) 30 days in any calendar year; or  
8270 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
8271 the borders of this state; or  
8272 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
8273 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
8274 state;  
8275 (31) sales of aircraft manufactured in Utah;  
8276 (32) amounts paid for the purchase of telecommunications service for purposes of  
8277 providing telecommunications service;  
8278 (33) sales, leases, or uses of the following:  
8279 (a) a vehicle by an authorized carrier; or  
8280 (b) tangible personal property that is installed on a vehicle:  
8281 (i) sold or leased to or used by an authorized carrier; and  
8282 (ii) before the vehicle is placed in service for the first time;  
8283 (34) (a) 45% of the sales price of any new manufactured home; and  
8284 (b) 100% of the sales price of any used manufactured home;  
8285 (35) sales relating to schools and fundraising sales;  
8286 (36) sales or rentals of durable medical equipment if:  
8287 (a) a person presents a prescription for the durable medical equipment; and  
8288 (b) the durable medical equipment is used for home use only;  
8289 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in



8290 Section [72-11-102](#); and

8291 (b) the commission shall by rule determine the method for calculating sales exempt

8292 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

8293 (38) sales to a ski resort of:

8294 (a) snowmaking equipment;

8295 (b) ski slope grooming equipment;

8296 (c) passenger ropeways as defined in Section [72-11-102](#); or

8297 (d) parts used in the repairs or renovations of equipment or passenger ropeways

8298 described in Subsections (38)(a) through (c);

8299 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

8300 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

8301 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

8302 [59-12-102](#);

8303 (b) if a seller that sells or rents at the same business location the right to use or operate

8304 for amusement, entertainment, or recreation one or more unassisted amusement devices and

8305 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

8306 applies if the seller separately accounts for the sales or rentals of the right to use or operate for

8307 amusement, entertainment, or recreation for the assisted amusement devices; and

8308 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

8309 Utah Administrative Rulemaking Act, the commission may make rules:

8310 (i) governing the circumstances under which sales are at the same business location;

8311 and

8312 (ii) establishing the procedures and requirements for a seller to separately account for

8313 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for

8314 assisted amusement devices;

8315 (41) (a) sales of photocopies by:

8316 (i) a governmental entity; or

8317 (ii) an entity within the state system of public education, including:

- 8318 (A) a school; or
- 8319 (B) the State Board of Education; or
- 8320 (b) sales of publications by a governmental entity;
- 8321 (42) amounts paid for admission to an athletic event at an institution of higher
- 8322 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 8323 20 U.S.C. Sec. 1681 et seq.;
- 8324 (43) (a) sales made to or by:
- 8325 (i) an area agency on aging; or
- 8326 (ii) a senior citizen center owned by a county, city, or town; or
- 8327 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 8328 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 8329 materials regardless of whether the semiconductor fabricating, processing, research, or
- 8330 development materials:
- 8331 (a) actually come into contact with a semiconductor; or
- 8332 (b) ultimately become incorporated into real property;
- 8333 (45) an amount paid by or charged to a purchaser for accommodations and services
- 8334 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 8335 [59-12-104.2](#);
- 8336 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 8337 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
- 8338 specified on the temporary sports event registration certificate;
- 8339 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 8340 adopted by the Public Service Commission only for purchase of electricity produced from a
- 8341 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 8342 Public Service Commission; and
- 8343 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 8344 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 8345 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the

- 8346 customer would have paid absent the tariff;
- 8347 (48) sales or rentals of mobility enhancing equipment if a person presents a  
8348 prescription for the mobility enhancing equipment;
- 8349 (49) sales of water in a:
- 8350 (a) pipe;
- 8351 (b) conduit;
- 8352 (c) ditch; or
- 8353 (d) reservoir;
- 8354 (50) sales of currency or coins that constitute legal tender of a state, the United States,  
8355 or a foreign nation;
- 8356 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 8357 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 8358 (ii) has a gold, silver, or platinum content of 50% or more; and
- 8359 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 8360 (i) ingot;
- 8361 (ii) bar;
- 8362 (iii) medallion; or
- 8363 (iv) decorative coin;
- 8364 (52) amounts paid on a sale-leaseback transaction;
- 8365 (53) sales of a prosthetic device:
- 8366 (a) for use on or in a human; and
- 8367 (b) (i) for which a prescription is required; or
- 8368 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 8369 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of  
8370 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
8371 or equipment is primarily used in the production or postproduction of the following media for  
8372 commercial distribution:
- 8373 (i) a motion picture;

8374 (ii) a television program;  
8375 (iii) a movie made for television;  
8376 (iv) a music video;  
8377 (v) a commercial;  
8378 (vi) a documentary; or  
8379 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the  
8380 commission by administrative rule made in accordance with Subsection (54)(d); or  
8381 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
8382 described in Subsection (54)(c) that is used for the production or postproduction of the  
8383 following are subject to the taxes imposed by this chapter:  
8384 (i) a live musical performance;  
8385 (ii) a live news program; or  
8386 (iii) a live sporting event;  
8387 (c) the following establishments listed in the 1997 North American Industry  
8388 Classification System of the federal Executive Office of the President, Office of Management  
8389 and Budget, apply to Subsections (54)(a) and (b):  
8390 (i) NAICS Code 512110; or  
8391 (ii) NAICS Code 51219; and  
8392 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8393 commission may by rule:  
8394 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);  
8395 or  
8396 (ii) define:  
8397 (A) "commercial distribution";  
8398 (B) "live musical performance";  
8399 (C) "live news program"; or  
8400 (D) "live sporting event";  
8401 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

8402 on or before June 30, 2027, of tangible personal property that:

8403 (i) is leased or purchased for or by a facility that:

8404 (A) is an alternative energy electricity production facility;

8405 (B) is located in the state; and

8406 (C) (I) becomes operational on or after July 1, 2004; or

8407 (II) has its generation capacity increased by one or more megawatts on or after July 1,

8408 2004, as a result of the use of the tangible personal property;

8409 (ii) has an economic life of five or more years; and

8410 (iii) is used to make the facility or the increase in capacity of the facility described in

8411 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

8412 transmission grid including:

8413 (A) a wind turbine;

8414 (B) generating equipment;

8415 (C) a control and monitoring system;

8416 (D) a power line;

8417 (E) substation equipment;

8418 (F) lighting;

8419 (G) fencing;

8420 (H) pipes; or

8421 (I) other equipment used for locating a power line or pole; and

8422 (b) this Subsection (55) does not apply to:

8423 (i) tangible personal property used in construction of:

8424 (A) a new alternative energy electricity production facility; or

8425 (B) the increase in the capacity of an alternative energy electricity production facility;

8426 (ii) contracted services required for construction and routine maintenance activities;

8427 and

8428 (iii) unless the tangible personal property is used or acquired for an increase in capacity

8429 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

8430 acquired after:

8431 (A) the alternative energy electricity production facility described in Subsection

8432 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

8433 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

8434 in Subsection (55)(a)(iii);

8435 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

8436 on or before June 30, 2027, of tangible personal property that:

8437 (i) is leased or purchased for or by a facility that:

8438 (A) is a waste energy production facility;

8439 (B) is located in the state; and

8440 (C) (I) becomes operational on or after July 1, 2004; or

8441 (II) has its generation capacity increased by one or more megawatts on or after July 1,

8442 2004, as a result of the use of the tangible personal property;

8443 (ii) has an economic life of five or more years; and

8444 (iii) is used to make the facility or the increase in capacity of the facility described in

8445 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

8446 transmission grid including:

8447 (A) generating equipment;

8448 (B) a control and monitoring system;

8449 (C) a power line;

8450 (D) substation equipment;

8451 (E) lighting;

8452 (F) fencing;

8453 (G) pipes; or

8454 (H) other equipment used for locating a power line or pole; and

8455 (b) this Subsection (56) does not apply to:

8456 (i) tangible personal property used in construction of:

8457 (A) a new waste energy facility; or

8458 (B) the increase in the capacity of a waste energy facility;  
8459 (ii) contracted services required for construction and routine maintenance activities;  
8460 and  
8461 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
8462 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:  
8463 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
8464 described in Subsection (56)(a)(iii); or  
8465 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
8466 in Subsection (56)(a)(iii);  
8467 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on  
8468 or before June 30, 2027, of tangible personal property that:  
8469 (i) is leased or purchased for or by a facility that:  
8470 (A) is located in the state;  
8471 (B) produces fuel from alternative energy, including:  
8472 (I) methanol; or  
8473 (II) ethanol; and  
8474 (C) (I) becomes operational on or after July 1, 2004; or  
8475 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as  
8476 a result of the installation of the tangible personal property;  
8477 (ii) has an economic life of five or more years; and  
8478 (iii) is installed on the facility described in Subsection (57)(a)(i);  
8479 (b) this Subsection (57) does not apply to:  
8480 (i) tangible personal property used in construction of:  
8481 (A) a new facility described in Subsection (57)(a)(i); or  
8482 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or  
8483 (ii) contracted services required for construction and routine maintenance activities;  
8484 and  
8485 (iii) unless the tangible personal property is used or acquired for an increase in capacity

8486 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

8487 (A) the facility described in Subsection (57)(a)(i) is operational; or

8488 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

8489 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a

8490 product transferred electronically to a person within this state if that tangible personal property

8491 or product transferred electronically is subsequently shipped outside the state and incorporated

8492 pursuant to contract into and becomes a part of real property located outside of this state;

8493 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

8494 state or political entity to which the tangible personal property is shipped imposes a sales, use,

8495 gross receipts, or other similar transaction excise tax on the transaction against which the other

8496 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

8497 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

8498 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a

8499 refund:

8500 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

8501 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on

8502 which the sale is made;

8503 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the

8504 sale prior to filing for the refund;

8505 (iv) for sales and use taxes paid under this chapter on the sale;

8506 (v) in accordance with Section 59-1-1410; and

8507 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

8508 the person files for the refund on or before June 30, 2011;

8509 (59) purchases:

8510 (a) of one or more of the following items in printed or electronic format:

8511 (i) a list containing information that includes one or more:

8512 (A) names; or

8513 (B) addresses; or



- 8514 (ii) a database containing information that includes one or more:
- 8515 (A) names; or
- 8516 (B) addresses; and
- 8517 (b) used to send direct mail;
- 8518 (60) redemptions or repurchases of a product by a person if that product was:
- 8519 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 8520 (b) redeemed or repurchased within the time period established in a written agreement
- 8521 between the person and the pawnbroker for redeeming or repurchasing the product;
- 8522 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 8523 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 8524 and
- 8525 (ii) has a useful economic life of one or more years; and
- 8526 (b) the following apply to Subsection (61)(a):
- 8527 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 8528 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 8529 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 8530 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 8531 (v) telecommunications transmission equipment, machinery, or software;
- 8532 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 8533 personal property or a product transferred electronically that are used in the research and
- 8534 development of alternative energy technology; and
- 8535 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 8536 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 8537 purchases of tangible personal property or a product transferred electronically that are used in
- 8538 the research and development of alternative energy technology;
- 8539 (63) (a) purchases of tangible personal property or a product transferred electronically
- 8540 if:
- 8541 (i) the tangible personal property or product transferred electronically is:

- 8542 (A) purchased outside of this state;
- 8543 (B) brought into this state at any time after the purchase described in Subsection
- 8544 (63)(a)(i)(A); and
- 8545 (C) used in conducting business in this state; and
- 8546 (ii) for:
- 8547 (A) tangible personal property or a product transferred electronically other than the
- 8548 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 8549 for a purpose for which the property is designed occurs outside of this state; or
- 8550 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 8551 outside of this state;
- 8552 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 8553 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 8554 or
- 8555 (ii) a sale of a vehicle exempt under Subsection (33); and
- 8556 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 8557 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
- 8558 following:
- 8559 (i) conducting business in this state if that phrase has the same meaning in this
- 8560 Subsection (63) as in Subsection (24);
- 8561 (ii) the first use of tangible personal property or a product transferred electronically if
- 8562 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 8563 (iii) a purpose for which tangible personal property or a product transferred
- 8564 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
- 8565 Subsection (24);
- 8566 (64) sales of disposable home medical equipment or supplies if:
- 8567 (a) a person presents a prescription for the disposable home medical equipment or
- 8568 supplies;
- 8569 (b) the disposable home medical equipment or supplies are used exclusively by the

8570 person to whom the prescription described in Subsection (64)(a) is issued; and  
8571 (c) the disposable home medical equipment and supplies are listed as eligible for  
8572 payment under:  
8573 (i) Title XVIII, federal Social Security Act; or  
8574 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;  
8575 (65) sales:  
8576 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
8577 District Act; or  
8578 (b) of tangible personal property to a subcontractor of a public transit district, if the  
8579 tangible personal property is:  
8580 (i) clearly identified; and  
8581 (ii) installed or converted to real property owned by the public transit district;  
8582 (66) sales of construction materials:  
8583 (a) purchased on or after July 1, 2010;  
8584 (b) purchased by, on behalf of, or for the benefit of an international airport:  
8585 (i) located within a county of the first class; and  
8586 (ii) that has a United States customs office on its premises; and  
8587 (c) if the construction materials are:  
8588 (i) clearly identified;  
8589 (ii) segregated; and  
8590 (iii) installed or converted to real property:  
8591 (A) owned or operated by the international airport described in Subsection (66)(b); and  
8592 (B) located at the international airport described in Subsection (66)(b);  
8593 (67) sales of construction materials:  
8594 (a) purchased on or after July 1, 2008;  
8595 (b) purchased by, on behalf of, or for the benefit of a new airport:  
8596 (i) located within a county of the second class; and  
8597 (ii) that is owned or operated by a city in which an airline as defined in Section

8598 [59-2-102](#) is headquartered; and

8599 (c) if the construction materials are:

8600 (i) clearly identified;

8601 (ii) segregated; and

8602 (iii) installed or converted to real property:

8603 (A) owned or operated by the new airport described in Subsection (67)(b);

8604 (B) located at the new airport described in Subsection (67)(b); and

8605 (C) as part of the construction of the new airport described in Subsection (67)(b);

8606 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

8607 (69) purchases and sales described in Section [63H-4-111](#);

8608 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

8609 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

8610 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

8611 lists a state or country other than this state as the location of registry of the fixed wing turbine

8612 powered aircraft; or

8613 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

8614 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

8615 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

8616 lists a state or country other than this state as the location of registry of the fixed wing turbine

8617 powered aircraft;

8618 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:

8619 (a) to a person admitted to an institution of higher education; and

8620 (b) by a seller, other than a bookstore owned by an institution of higher education, if

8621 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

8622 textbook for a higher education course;

8623 (72) a license fee or tax a municipality imposes in accordance with Subsection

8624 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced

8625 level of municipal services;

8626 (73) amounts paid or charged for construction materials used in the construction of a  
8627 new or expanding life science research and development facility in the state, if the construction  
8628 materials are:

- 8629 (a) clearly identified;
- 8630 (b) segregated; and
- 8631 (c) installed or converted to real property;

8632 (74) amounts paid or charged for:

8633 (a) a purchase or lease of machinery and equipment that:

8634 (i) are used in performing qualified research:

8635 (A) as defined in Section 41(d), Internal Revenue Code; and

8636 (B) in the state; and

8637 (ii) have an economic life of three or more years; and

8638 (b) normal operating repair or replacement parts:

8639 (i) for the machinery and equipment described in Subsection (74)(a); and

8640 (ii) that have an economic life of three or more years;

8641 (75) a sale or lease of tangible personal property used in the preparation of prepared  
8642 food if:

8643 (a) for a sale:

8644 (i) the ownership of the seller and the ownership of the purchaser are identical; and

8645 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

8646 tangible personal property prior to making the sale; or

8647 (b) for a lease:

8648 (i) the ownership of the lessor and the ownership of the lessee are identical; and

8649 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

8650 personal property prior to making the lease;

8651 (76) (a) purchases of machinery or equipment if:

8652 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

8653 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

8654 System of the federal Executive Office of the President, Office of Management and Budget;  
8655 (ii) the machinery or equipment:  
8656 (A) has an economic life of three or more years; and  
8657 (B) is used by one or more persons who pay admission or user fees described in  
8658 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
8659 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:  
8660 (A) amounts paid or charged as admission or user fees described in Subsection  
8661 59-12-103(1)(f); and  
8662 (B) subject to taxation under this chapter; and  
8663 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
8664 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
8665 previous calendar quarter is:  
8666 (i) amounts paid or charged as admission or user fees described in Subsection  
8667 59-12-103(1)(f); and  
8668 (ii) subject to taxation under this chapter;  
8669 (77) purchases of a short-term lodging consumable by a business that provides  
8670 accommodations and services described in Subsection 59-12-103(1)(i);  
8671 (78) amounts paid or charged to access a database:  
8672 (a) if the primary purpose for accessing the database is to view or retrieve information  
8673 from the database; and  
8674 (b) not including amounts paid or charged for a:  
8675 (i) digital [~~audiowork~~] audio work;  
8676 (ii) digital audio-visual work; or  
8677 (iii) digital book;  
8678 (79) amounts paid or charged for a purchase or lease made by an electronic financial  
8679 payment service, of:  
8680 (a) machinery and equipment that:  
8681 (i) are used in the operation of the electronic financial payment service; and

- 8682 (ii) have an economic life of three or more years; and
- 8683 (b) normal operating repair or replacement parts that:
- 8684 (i) are used in the operation of the electronic financial payment service; and
- 8685 (ii) have an economic life of three or more years;
- 8686 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- 8687 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 8688 product transferred electronically if the tangible personal property or product transferred
- 8689 electronically:
- 8690 (a) is stored, used, or consumed in the state; and
- 8691 (b) is temporarily brought into the state from another state:
- 8692 (i) during a disaster period as defined in Section 53-2a-1202;
- 8693 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 8694 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 8695 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 8696 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 8697 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 8698 Recreation Program;
- 8699 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 8700 (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise
- 8701 data center of machinery, equipment, or normal operating repair or replacement parts, if the
- 8702 machinery, equipment, or normal operating repair or replacement parts:
- 8703 (a) are used in the operation of the establishment; and
- 8704 (b) have an economic life of one or more years;
- 8705 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 8706 vehicle that includes cleaning or washing of the interior of the vehicle;
- 8707 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 8708 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 8709 or consumed:

8710 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined  
8711 in Section 63M-4-701 located in the state;

8712 (b) if the machinery, equipment, normal operating repair or replacement parts,  
8713 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

8714 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is  
8715 added to gasoline or diesel fuel;

8716 (ii) research and development;

8717 (iii) transporting, storing, or managing raw materials, work in process, finished  
8718 products, and waste materials produced from refining gasoline or diesel fuel, or adding  
8719 blendstock to gasoline or diesel fuel;

8720 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in  
8721 refining; or

8722 (v) preventing, controlling, or reducing pollutants from refining; and

8723 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office  
8724 of Energy Development under Subsection 63M-4-702(2);

8725 (87) amounts paid to or charged by a proprietor for accommodations and services, as  
8726 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax  
8727 imposed under Section 63H-1-205;

8728 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
8729 operating repair or replacement parts, or materials, except for office equipment or office  
8730 supplies, by an establishment, as the commission defines that term in accordance with Title  
8731 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

8732 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North  
8733 American Industry Classification System of the federal Executive Office of the President,  
8734 Office of Management and Budget;

8735 (b) is located in this state; and

8736 (c) uses the machinery, equipment, normal operating repair or replacement parts, or  
8737 materials in the operation of the establishment; and



8738 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#).  
8739 Section 97. Section **59-26-104** is amended to read:  
8740 **59-26-104. Collection of tax.**  
8741 A multi-channel video or audio service provider shall:  
8742 (1) collect the tax imposed by Section [59-26-103](#) from the purchaser;  
8743 (2) pay the tax collected under Subsection (1) to the commission:  
8744 (a) monthly on or before the last day of the month immediately following the last day  
8745 of the previous month if:  
8746 (i) the multi-channel video or audio service provider is required to file a sales and use  
8747 tax return with the commission monthly under Section [59-12-108](#); or  
8748 (ii) the multi-channel video or audio service provider is not required to file a sales and  
8749 use tax return under Chapter 12, Sales and Use Tax Act; or  
8750 (b) quarterly on or before the last day of the month immediately following the last day  
8751 of the previous quarter if the multi-channel video or audio service provider is required to file a  
8752 sales and use tax return with the commission quarterly under Section [~~59-12-108~~] [59-12-107](#);  
8753 and  
8754 (3) pay the tax collected under Subsection (1) using a form prescribed by the  
8755 commission.  
8756 Section 98. Section **62A-4a-202.9** is amended to read:  
8757 **62A-4a-202.9. Child protection unit pilot program.**  
8758 (1) The division shall establish and operate, as funding allows, a child protection unit  
8759 pilot program in up to three areas of the state where a local government has established a child  
8760 protection unit.  
8761 (2) The child protection unit pilot program is established to improve communications  
8762 between a child protection unit and the division in the division's management of child welfare  
8763 matters and to strengthen the state's child welfare system.  
8764 (3) The pilot program may include:  
8765 (a) involving a child protection unit in the child protection team during the division's

8766 investigation when a child is taken into protective custody, as described in Section  
8767 [62A-4a-202.3](#);

8768 (b) involving a child protection unit in the child protection team meetings, as described  
8769 in Section [62A-4a-202.8](#);

8770 (c) involving a child protection unit in the division's protective, diagnostic, assessment,  
8771 treatment, and coordination services, as described in Section [62A-4a-409](#); or

8772 (d) receiving referrals, reports, or other information from a child protection unit about a  
8773 child protection unit's investigations of cases that may involve abuse, neglect, or dependency of  
8774 a child.

8775 (4) The division shall consult with a child protection unit before the division closes a  
8776 mutual case.

8777 (5) The child protection unit shall notify the division if the child protection unit closes  
8778 an investigation related to a mutual case.

8779 (6) The division and the child protection unit shall coordinate on mutual cases at least  
8780 once every month.

8781 (7) Subject to Section [62A-4a-412](#), while in meetings or while coordinating with the  
8782 child protection unit about a mutual case, the division shall grant the child protection unit  
8783 access to the division's information or records on the mutual case.

8784 (8) A child protection unit may share case-specific information obtained from the  
8785 division with members of a multidisciplinary team that is:

8786 (a) assembled by the child protection unit for a particular case;

8787 (b) assembled when a case demonstrates:

8788 (i) the likelihood of severe child abuse or neglect; or

8789 (ii) a high risk of repetition as evidenced by previous involvements with law  
8790 enforcement;

8791 (c) assembled for the purpose of information sharing and identification of resources,  
8792 services, or actions that are in the best interest of the child or the child's family; and

8793 (d) composed of:

- 8794 (i) a victim advocate;
- 8795 (ii) a therapist;
- 8796 (iii) a representative of the child's school district; or
- 8797 (iv) another individual that the child protection unit designates as valuable to provide
- 8798 necessary services to the child or the family of the child.

8799 (9) The division and the child protection unit shall collect data on the effectiveness of  
8800 the pilot program in strengthening the state's child welfare system and shall report the data to  
8801 the Child Welfare Legislative Oversight [~~Committee~~] Panel on or before November 30 of each  
8802 year that the pilot program is in effect.

8803 Section 99. Section **63A-5-225** is amended to read:

8804 **63A-5-225. Development of new correctional facilities.**

8805 (1) As used in this section:

8806 (a) "Committee" means the Legislative Management Committee created in Section  
8807 [36-12-6](#).

8808 (b) "New correctional facilities" means a new prison and related facilities to be  
8809 constructed to replace the state prison located in Draper.

8810 (c) "Prison project" means all aspects of a project for the design and construction of  
8811 new correctional facilities on the selected site, including:

- 8812 (i) the acquisition of land, interests in land, easements, or rights-of-way;
- 8813 (ii) site improvement; and
- 8814 (iii) the acquisition, construction, equipping, or furnishing of facilities, structures,  
8815 infrastructure, roads, parking facilities, utilities, and improvements, whether on or off the  
8816 selected site, that are necessary, incidental, or convenient to the development of new  
8817 correctional facilities on the selected site.

8818 (d) "Selected site" means the site selected [~~under Subsection 63C-15-203(2)~~] as the site  
8819 for new correctional facilities.

8820 (2) In consultation with the committee, the division shall oversee the prison project, as  
8821 provided in this section.

8822 (3) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, and this  
8823 section, the division shall:

8824 (i) enter into contracts with persons providing professional and construction services  
8825 for the prison project;

8826 (ii) provide reports to the committee regarding the prison project, as requested by the  
8827 commission; and

8828 (iii) consider input from the committee on the prison project, subject to Subsection  
8829 (3)(b).

8830 (b) The division may not consult with or receive input from the committee regarding:

8831 (i) the evaluation of proposals from persons seeking to provide professional and  
8832 construction services for the prison project; or

8833 (ii) the selection of persons to provide professional and construction services for the  
8834 prison project.

8835 (c) A contract with a project manager or person with a comparable position on the  
8836 prison project shall include a provision that requires the project manager or other person to  
8837 provide reports to the committee regarding the prison project, as requested by the committee.

8838 (4) All contracts associated with the design or construction of new correctional  
8839 facilities shall be awarded and managed by the division in accordance with Title 63G, Chapter  
8840 6a, Utah Procurement Code, and this section.

8841 (5) The division shall coordinate with the Department of Corrections, created in  
8842 Section [64-13-2](#), and the State Commission on Criminal and Juvenile Justice, created in  
8843 Section [63M-7-201](#), during the prison project to help ensure that the design and construction of  
8844 new correctional facilities are conducive to and consistent with, and help to implement any  
8845 reforms of or changes to, the state's corrections system and corrections programs.

8846 (6) (a) There is created within the General Fund a restricted account known as the  
8847 "Prison Development Restricted Account."

8848 (b) The account created in Subsection (6)(a) is funded by legislative appropriations.

8849 (c) (i) The account shall earn interest or other earnings.

8850 (ii) The Division of Finance shall deposit interest or other earnings derived from the  
8851 investment of account funds into the account.

8852 (d) Upon appropriation from the Legislature, money from the account shall be used to  
8853 fund the Prison Project Fund created in Subsection (7).

8854 (7) (a) There is created a capital projects fund known as the "Prison Project Fund."

8855 (b) The fund consists of:

8856 (i) money appropriated to the fund by the Legislature; and

8857 (ii) proceeds from the issuance of bonds authorized in Section 63B-25-101 to provide  
8858 funding for the prison project.

8859 (c) (i) The fund shall earn interest or other earnings.

8860 (ii) The Division of Finance shall deposit interest or other earnings derived from the  
8861 investment of fund money into the fund.

8862 (d) Money in the fund shall be used by the division to fund the prison project.

8863 Section 100. Section 63F-2-102 is amended to read:

8864 **63F-2-102. Data Security Management Council -- Membership -- Duties.**

8865 (1) There is created the Data Security Management Council composed of nine  
8866 members as follows:

8867 (a) the chief information officer appointed under Section 63F-1-201, or the chief  
8868 information officer's designee;

8869 (b) one individual appointed by the governor;

8870 (c) one individual appointed by the speaker of the House of Representatives and the  
8871 president of the Senate [~~from the Legislative Information Technology Steering Committee~~];  
8872 and

8873 (d) the highest ranking information technology official, or the highest ranking  
8874 information technology official's designee, from each of:

8875 (i) the Judicial Council;

8876 (ii) the State Board of Regents;

8877 (iii) the State Board of Education;

- 8878 (iv) the Utah System of Technical Colleges Board of Trustees;
- 8879 (v) the State Tax Commission; and
- 8880 (vi) the Office of the Attorney General.
- 8881 (2) The council shall elect a chair of the council by majority vote.
- 8882 (3) (a) A majority of the members of the council constitutes a quorum.
- 8883 (b) Action by a majority of a quorum of the council constitutes an action of the council.
- 8884 (4) The Department of Technology Services shall provide staff to the council.
- 8885 (5) The council shall meet quarterly, or as often as necessary, to:
- 8886 (a) review existing state government data security policies;
- 8887 (b) assess ongoing risks to state government information technology;
- 8888 (c) create a method to notify state and local government entities of new risks;
- 8889 (d) coordinate data breach simulation exercises with state and local government
- 8890 entities; and
- 8891 (e) develop data security best practice recommendations for state government that
- 8892 include recommendations regarding:
- 8893 (i) hiring and training a chief information security officer for each government entity;
- 8894 (ii) continuous risk monitoring;
- 8895 (iii) password management;
- 8896 (iv) using the latest technology to identify and respond to vulnerabilities;
- 8897 (v) protecting data in new and old systems; and
- 8898 (vi) best procurement practices.
- 8899 (6) A member who is not a member of the Legislature may not receive compensation
- 8900 or benefits for the member's service but may receive per diem and travel expenses as provided
- 8901 in:
- 8902 (a) Section [63A-3-106](#);
- 8903 (b) Section [63A-3-107](#); and
- 8904 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).
- 8905 Section 101. Section **63G-1-401** is amended to read:

- 8906           **63G-1-401. Commemorative periods.**
- 8907           (1) The following days shall be commemorated annually:
- 8908           (a) Utah History Day at the Capitol, on the Friday immediately following the fourth
- 8909 Monday in January, to encourage citizens of the state, including students, to participate in
- 8910 activities that recognize Utah's history;
- 8911           (b) Utah State Flag Day, on March 9;
- 8912           (c) Vietnam Veterans Recognition Day, on March 29;
- 8913           (d) Utah Railroad Workers Day, on May 10;
- 8914           (e) Dandy-Walker Syndrome Awareness Day, on May 11;
- 8915           (f) Yellow Ribbon Day, on the third Monday in May, in honor of men and women who
- 8916 are serving or have served in the United States Armed Forces around the world in defense of
- 8917 freedom;
- 8918           (g) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General
- 8919 Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;
- 8920           (h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;
- 8921           (i) Navajo Code Talker Day, on August 14;
- 8922           (j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the
- 8923 anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in
- 8924 Sunset, Utah, to:
- 8925           (i) encourage individuals to make child safety a priority;
- 8926           (ii) remember the importance of continued efforts to reunite missing children with their
- 8927 families; and
- 8928           (iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;
- 8929           (k) Constitution Day, on September 17;
- 8930           (l) POW/MIA Recognition Day, on the third Friday in September;
- 8931           (m) Victims of Communism Memorial Day, on November 7;
- 8932           (n) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and
- 8933           (o) Bill of Rights Day, on December 15.

8934 (2) The Department of Veterans and Military Affairs shall coordinate activities, special  
8935 programs, and promotional information to heighten public awareness and involvement relating  
8936 to Subsections (1)(f) and (l).

8937 (3) The month of April shall be commemorated annually as Clean Out the Medicine  
8938 Cabinet Month to:

8939 (a) recognize the urgent need to make Utah homes and neighborhoods safe from  
8940 prescription medication abuse and poisonings by the proper home storage and disposal of  
8941 prescription and over-the-counter medications; and

8942 (b) educate citizens about the permanent medication disposal sites in Utah listed on  
8943 useonlyasdirected.org that allow disposal throughout the year.

8944 (4) The second full week of April shall be commemorated annually as Animal Care  
8945 and Control Appreciation Week to recognize and increase awareness within the community of  
8946 the services that animal care and control professionals provide.

8947 (5) The first full week of May shall be commemorated annually as State Water Week  
8948 to recognize the importance of water conservation, quality, and supply in the state.

8949 ~~[(5)]~~ (6) The third full week of June shall be commemorated annually as Workplace  
8950 Safety Week to heighten public awareness regarding the importance of safety in the workplace.

8951 ~~[(6) The first full week of May shall be commemorated annually as State Water Week~~  
8952 ~~to recognize the importance of water conservation, quality, and supply in the state.]~~

8953 (7) The second Friday and Saturday in August shall be commemorated annually as  
8954 Utah Fallen Heroes Days to:

8955 (a) honor fallen heroes who, during service in the military or public safety, have  
8956 sacrificed their lives to protect the country and the citizens of the state; and

8957 (b) encourage political subdivisions to acknowledge and honor fallen heroes.

8958 (8) The third full week in August shall be commemorated annually as Drowsy Driving  
8959 Awareness Week to:

8960 (a) educate the public about the relationship between fatigue and driving performance;  
8961 and



8962 (b) encourage the Department of Public Safety and the Department of Transportation to  
8963 recognize and promote educational efforts on the dangers of drowsy driving.

8964 (9) The third full week of September shall be commemorated annually as Gang  
8965 Prevention Awareness Week.

8966 [~~(9)~~] (10) The month of October shall be commemorated annually as Italian-American  
8967 Heritage Month.

8968 [~~(10)~~] (11) The month of November shall be commemorated annually as American  
8969 Indian Heritage Month.

8970 [~~(11) The third full week of September shall be commemorated annually as Gang~~  
8971 ~~Prevention Awareness Week.]~~

8972 (12) The first full week of December shall be commemorated annually as Avalanche  
8973 Awareness Week to:

8974 (a) educate the public about avalanche awareness and safety;

8975 (b) encourage collaborative efforts to decrease annual avalanche accidents and  
8976 fatalities; and

8977 (c) honor Utah residents who have lost their lives in avalanches, including those who  
8978 lost their lives working to prevent avalanches.

8979 Section 102. Section **63G-6a-204** is amended to read:

8980 **63G-6a-204. Applicability of rules and regulations of Utah State Procurement**  
8981 **Policy Board and State Building Board -- Report to interim committee.**

8982 (1) Except as provided in Subsection (2), rules made by the board under this chapter  
8983 shall govern all procurement units for which the board is the applicable rulemaking authority.

8984 (2) The building board rules governing procurement of construction, design  
8985 professional services, and leases apply to the procurement of construction, design professional  
8986 services, and leases of real property by the Division of Facilities Construction and  
8987 Management.

8988 (3) An applicable rulemaking authority may make its own rules, consistent with this  
8989 chapter, governing procurement by a person over which the applicable rulemaking authority

8990 has rulemaking authority.

8991 (4) The board shall make a report on or before July 1 of each year to a legislative  
8992 interim committee, designated by the Legislative Management Committee created under  
8993 Section 36-12-6, on the establishment, implementation, and enforcement of the rules made  
8994 under Section 63G-6a-203.

8995 [~~(5) Notwithstanding Subsection 63G-3-301(15)(b), an applicable rulemaking authority~~  
8996 ~~is required to initiate rulemaking proceedings, for rules required to be made under this chapter,~~  
8997 ~~on or before:]~~

8998 [~~(a) May 13, 2014, if the applicable rulemaking authority is the board; or]~~

8999 [~~(b) January 1, 2015, for each other applicable rulemaking authority.]~~

9000 Section 103. Section 63G-6a-712 is amended to read:

9001 **63G-6a-712. Unsolicited proposals.**

9002 (1) As used in this section, "unsolicited proposal" [~~-(a)~~] means a written proposal:

9003 [~~(i)~~] (a) for a public-private partnership for:

9004 [~~(A)~~] (i) an infrastructure project; or

9005 [~~(B)~~] (ii) a project to collect, analyze, and distribute health data to improve health and  
9006 health care and to facilitate interaction regarding health and health care issues; and

9007 [~~(ii)~~] (b) that is not submitted in response to a solicitation [~~;-and~~].

9008 [~~(b) does not include an initial proposal, as defined in Section 63G-6a-711.]~~

9009 (2) (a) Subject to Subsection (2)(b), a person may submit an unsolicited proposal to a  
9010 procurement unit at any time.

9011 (b) An unsolicited proposal may not be used to seek a procurement unit's consideration  
9012 of a proposal after the expiration of the time for submitting proposals in response to a request  
9013 for proposals.

9014 (3) An unsolicited proposal shall include:

9015 (a) a reference to this section and a statement that the unsolicited proposal is submitted  
9016 under this section;

9017 (b) a conceptual description of the project that constitutes the procurement item that is

9018 the subject of the proposed public-private partnership;

9019 (c) a description of the economic benefit of the project to the state and the procurement  
9020 unit;

9021 (d) information concerning the services or facilities currently being provided by the  
9022 state or procurement unit that are similar to the project;

9023 (e) an estimate of the project costs for:

9024 (i) design;

9025 (ii) implementation;

9026 (iii) operation and maintenance; and

9027 (iv) any other related project cost; and

9028 (f) the name, address, telephone number, and email address of an individual who may  
9029 be contacted for further information concerning the unsolicited proposal.

9030 (4) A procurement unit is not required to consider an unsolicited proposal.

9031 (5) A procurement unit may charge a person submitting an unsolicited proposal a fee to  
9032 cover the actual cost of processing, considering, and evaluating the unsolicited proposal.

9033 (6) A procurement unit that receives an unsolicited proposal may not award a contract  
9034 for the procurement item described in the unsolicited proposal unless:

9035 (a) the procurement unit first engages in a standard procurement process for proposals  
9036 to provide the procurement item described in the unsolicited proposal; or

9037 (b) awarding the contract without the procurement unit engaging in a standard  
9038 procurement process is allowed under Section [63G-6a-802](#).

9039 (7) If a procurement unit engages in a standard procurement process pursuant to  
9040 Subsection (6)(a):

9041 (a) the procurement unit shall treat an unsolicited proposal as though it were submitted  
9042 as a proposal in response to the solicitation; and

9043 (b) a person who has submitted an unsolicited proposal may, within the time provided  
9044 in the solicitation for the submission of proposals, modify the unsolicited proposal to the extent  
9045 necessary to address matters raised in the solicitation that were not addressed in the initial

9046 unsolicited proposal.

9047 (8) An applicable rulemaking authority may make rules to govern the submission,  
9048 processing, consideration, and evaluation of an unsolicited proposal, including fees relating to  
9049 the unsolicited proposal.

9050 (9) An unsolicited proposal is subject to Chapter 2, Government Records Access and  
9051 Management Act, including, if applicable, provisions relating to a written claim of business  
9052 confidentiality, as provided in Section 63G-2-309, for trade secrets, commercial information, or  
9053 nonindividual financial information described in Subsection 63G-2-305(1) or (2).

9054 Section 104. Section 63G-6a-1209 is amended to read:

9055 **63G-6a-1209. Leases.**

9056 (1) As used in this section, "lease" means for a procurement unit to lease or  
9057 lease-purchase a procurement item from a person.

9058 (2) This section does not apply to the lease of real property.

9059 (3) A procurement unit may not lease a procurement item unless the procurement unit  
9060 complies with the requirements of this section.

9061 (4) A procurement unit may lease a procurement item if:

9062 (a) the procurement officer determines that it is in the best interest of the procurement  
9063 unit to lease the procurement item, after the procurement officer:

9064 (i) investigates alternative means of obtaining the procurement item; and

9065 (ii) considers the costs and benefits of the alternative means of obtaining the  
9066 procurement item;

9067 (b) all conditions for renewal and cost are included in the lease;

9068 (c) the lease is awarded through a standard procurement process, or an exception to a  
9069 standard procurement process described in Part 8, Exceptions to Procurement Requirements;

9070 (d) for a standard procurement process, the invitation for bids, request for proposals, or  
9071 request for quotes states:

9072 (i) that the procurement unit is seeking, or willing to consider, a lease; and

9073 (ii) for a lease purchase, that the procurement unit is seeking, or willing to consider, a

9074 lease-purchase;

9075 (e) the lease is not used to avoid competition; and

9076 (f) the lease complies ~~[to]~~ with all other provisions of law or rule applicable to the  
9077 lease.

9078 Section 105. Section **63G-6a-1403** is amended to read:

9079 **63G-6a-1403. Procurement of tollway development agreements.**

9080 (1) As used in this section, "tollway development agreement" ~~[is as]~~ means the same as  
9081 that term is defined in Section [72-6-202](#).

9082 (2) The Department of Transportation and the Transportation Commission:

9083 (a) may solicit a tollway development agreement proposal by following the  
9084 requirements of this section;

9085 (b) may award a solicited tollway development agreement contract for any tollway  
9086 project by following the requirements of this section; and

9087 (c) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
9088 Rulemaking Act, establishing requirements for the procurement of tollway development  
9089 agreement proposals in addition to those required by this section.

9090 (3) (a) Before entering into a tollway development agreement, the Department of  
9091 Transportation may issue a request for qualifications to prequalify potential contractors.

9092 (b) Public notice of the request for qualifications shall be given in accordance with  
9093 board rules.

9094 (c) The Department of Transportation shall require, as part of the qualifications  
9095 specified in the request for qualifications, that potential contractors at least provide:

9096 (i) a demonstration of their experience with other transportation concession projects  
9097 with attributes similar to the project being procured;

9098 (ii) a financial statement of the firm or consortium of firms making the proposal;

9099 (iii) a conceptual project development plan and financing plan;

9100 (iv) the legal structure of the firm or consortium of firms making the proposal;

9101 (v) the organizational structure for the project; and

9102 (vi) a statement describing why the firm or consortium of firms is best qualified for the  
9103 project.

9104 (d) The request for qualifications shall identify the number of eligible competing  
9105 offerors that the Department of Transportation will select to submit a proposal.

9106 (4) The Department of Transportation shall:

9107 (a) evaluate the responses received from the request for qualifications;

9108 (b) select from their number those qualified to submit proposals; and

9109 (c) invite those respondents to submit proposals based upon the Department of  
9110 Transportation's request for proposals.

9111 (5) The Department of Transportation shall issue a request for proposals to those  
9112 qualified respondents that may require, as appropriate for the procurement:

9113 (a) a description of the proposed project or projects;

9114 (b) a financial plan for the project, including:

9115 (i) the anticipated financial commitment of all parties;

9116 (ii) equity, debt, and other financing mechanisms;

9117 (iii) an analysis of the projected return, rate of return, or both; and

9118 (iv) the monetary benefit and other value to a government entity;

9119 (c) assumptions about user fees or toll rates;

9120 (d) a project development and management plan, including:

9121 (i) the contracting structure;

9122 (ii) the plan for quality management;

9123 (iii) the proposed toll enforcement plan; and

9124 (iv) the plan for safety management; and

9125 (e) that the proposal [to] comply with the minimum guidelines for tollway  
9126 development agreement proposals under Section [72-6-204](#).

9127 (6) The Department of Transportation and the Transportation Commission:

9128 (a) shall evaluate the submissions received in response to the request for proposals  
9129 from the prequalified offerors;

9130 (b) shall comply with rules relating to discussion of proposals, best and final offers,  
9131 and evaluations of the proposals submitted; and

9132 (c) may, after considering price and other identified factors and complying with the  
9133 requirements of Section 72-6-206, award the contract to the responsible offeror whose  
9134 responsive proposal is most advantageous to the state.

9135 Section 106. Section 63H-1-201 is amended to read:

9136 **63H-1-201. Creation of military installation development authority -- Status and**  
9137 **powers of authority -- Limitation.**

9138 (1) There is created a military installation development authority.

9139 (2) The authority is:

9140 (a) an independent, nonprofit, separate body corporate and politic, with perpetual  
9141 succession and statewide jurisdiction, whose purpose is to facilitate the development of land  
9142 within a project area or on military land associated with a project area;

9143 (b) a political subdivision of the state; and

9144 (c) a public corporation, as defined in Section 63E-1-102.

9145 (3) The authority may:

9146 (a) as provided in this chapter, facilitate the development of land within one or more  
9147 project areas, including the ongoing operation of facilities within a project area, or  
9148 development of military land associated with a project area;

9149 (b) sue and be sued;

9150 (c) enter into contracts generally;

9151 (d) buy, obtain an option upon, or otherwise acquire any interest in real or personal  
9152 property:

9153 (i) in a project area; or

9154 (ii) outside a project area for publicly owned infrastructure and improvements, if the  
9155 board considers the purchase, option, or other interest acquisition to be necessary for fulfilling  
9156 the authority's development objectives;

9157 (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or

- 9158 personal property;
- 9159 (f) enter into a lease agreement on real or personal property, either as lessee or lessor:
- 9160 (i) in a project area; or
- 9161 (ii) outside a project area, if the board considers the lease to be necessary for fulfilling
- 9162 the authority's development objectives;
- 9163 (g) provide for the development of land within a project area or military land
- 9164 associated with the project area under one or more contracts;
- 9165 (h) exercise powers and perform functions under a contract, as authorized in the
- 9166 contract;
- 9167 (i) exercise exclusive police power within a project area to the same extent as though
- 9168 the authority were a municipality, including the collection of regulatory fees;
- 9169 (j) receive the property tax allocation and other taxes and fees as provided in this
- 9170 chapter;
- 9171 (k) accept financial or other assistance from any public or private source for the
- 9172 authority's activities, powers, and duties, and expend any funds so received for any of the
- 9173 purposes of this chapter;
- 9174 (l) borrow money, contract with, or accept financial or other assistance from the federal
- 9175 government, a public entity, or any other source for any of the purposes of this chapter and
- 9176 comply with any conditions of the loan, contract, or assistance;
- 9177 (m) issue bonds to finance the undertaking of any development objectives of the
- 9178 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
- 9179 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;
- 9180 (n) hire employees, including contract employees;
- 9181 (o) transact other business and exercise all other powers provided for in this chapter;
- 9182 (p) enter into a development agreement with a developer of land within a project area;
- 9183 (q) enter into an agreement with a political subdivision of the state under which the
- 9184 political subdivision provides one or more municipal services within a project area;
- 9185 (r) enter into an agreement with a private contractor to provide one or more municipal



9186 services within a project area;

9187 (s) provide for or finance an energy efficiency upgrade, a renewable energy system, or  
9188 electric vehicle charging infrastructure as defined in Section [~~11-42-102~~] [11-42a-102](#), in  
9189 accordance with Title 11, Chapter [~~42, Assessment Area Act~~] [42a, Commercial Property](#)  
9190 [Assessed Clean Energy Act](#);

9191 (t) exercise powers and perform functions that the authority is authorized by statute to  
9192 exercise or perform; and

9193 (u) enter into an agreement with the federal government or an agency of the federal  
9194 government under which the federal government or agency:

9195 (i) provides law enforcement services only to military land within a project area; and

9196 (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement  
9197 agency of the state or a political subdivision of the state.

9198 (4) The authority may not itself provide law enforcement service or fire protection  
9199 service within a project area but may enter into an agreement for one or both of those services,  
9200 as provided in Subsection (3)(q).

9201 Section 107. Section **63I-1-230** is amended to read:

9202 **63I-1-230. Repeal dates, Title 30.**

9203 Sections [30-1-34](#)[;] and [30-1-36](#)[, and ~~30-1-39~~] are repealed July 1, 2023.

9204 Section 108. Section **63I-1-253** is amended to read:

9205 **63I-1-253. Repeal dates, Titles 53 through 53G.**

9206 The following provisions are repealed on the following dates:

9207 (1) Subsection [53-6-203](#)(1)(b)(ii), regarding being 19 years old at certification, is  
9208 repealed July 1, 2022.

9209 (2) Subsection [53-13-104](#)(6), regarding being 19 years old at certification, is repealed  
9210 July 1, 2022.

9211 (3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

9212 (4) Section [53B-18-1501](#) is repealed July 1, 2021.

9213 (5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

- 9214 (6) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.
- 9215 (7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money
- 9216 from the Land Exchange Distribution Account to the Geological Survey for test wells, other
- 9217 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.
- 9218 (8) Section 53E-3-515 is repealed January 1, 2023.
- 9219 (9) In relation to a standards review committee, on January 1, 2023:
- 9220 (a) in Subsection 53E-4-202(8), the language that states "by a standards review
- 9221 committee and the recommendations of a standards review committee established under
- 9222 Section 53E-4-203" is repealed; and
- 9223 (b) Section 53E-4-203 is repealed.
- 9224 (10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:
- 9225 (a) Subsection 53B-17-1201(1) is repealed;
- 9226 (b) Section 53B-17-1203 is repealed;
- 9227 (c) Subsection 53B-17-1204(2) is repealed;
- 9228 (d) Subsection 53B-17-1204(4)(a), the language that states "in accordance with the
- 9229 method described in Subsection (4)(c)" is repealed; and
- 9230 (e) Subsection 53B-17-1204(4)(c) is repealed.
- 9231 (11) Section 53F-2-514 is repealed July 1, 2020.
- 9232 (12) Section 53F-5-203 is repealed July 1, 2024.
- 9233 (13) Section 53F-5-212 is repealed July 1, 2024.
- 9234 (14) Section 53F-5-213 is repealed July 1, 2023.
- 9235 (15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State
- 9236 Plan Pilot Program, is repealed July 1, 2022.
- 9237 [~~(16) Section 53F-6-201 is repealed July 1, 2019.~~]
- 9238 [~~(17)~~ (16) Section 53F-9-501 is repealed January 1, 2023.
- 9239 [~~(18)~~ (17) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety
- 9240 Commission, are repealed January 1, 2025.
- 9241 [~~(19)~~ (18) Subsection 53G-8-211(4), regarding referrals of a minor to court for a class

- 9242 C misdemeanor, is repealed July 1, 2020.
- 9243 Section 109. Section **63I-1-263** is amended to read:
- 9244 **63I-1-263. Repeal dates, Titles 63A to 63N.**
- 9245 (1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:
- 9246 (a) Subsection **63A-1-201**(1) is repealed;
- 9247 (b) Subsection **63A-1-202**(2)(c), the language that states "using criteria established by
- 9248 the board" is repealed;
- 9249 (c) Section **63A-1-203** is repealed;
- 9250 (d) Subsections **63A-1-204**(1) and (2), the language that states "After consultation with
- 9251 the board, and" is repealed; and
- 9252 (e) Subsection **63A-1-204**(1)(b), the language that states "using the standards provided
- 9253 in Subsection **63A-1-203**(3)(c)" is repealed.
- 9254 (2) Subsection **63A-5-228**(2)(h), relating to prioritizing and allocating capital
- 9255 improvement funding, is repealed on July 1, 2024.
- 9256 (3) Section **63A-5-603**, State Facility Energy Efficiency Fund, is repealed July 1, 2023.
- 9257 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
- 9258 1, 2028.
- 9259 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
- 9260 2025.
- 9261 [~~(6) Title 63C, Chapter 16, Prison Development Commission Act, is repealed July 1,~~
- 9262 ~~2020.~~]
- 9263 [(7)] (6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act,
- 9264 is repealed July 1, 2021.
- 9265 [(8)] (7) Title 63C, Chapter 18, Mental Health Crisis Line Commission, is repealed
- 9266 July 1, 2023.
- 9267 [(9)] (8) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July
- 9268 1, 2025.
- 9269 [(10)] (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed

9270 July 1, 2020.

9271 ~~[(11)]~~ (10) In relation to the State Fair Corporation Board of Directors, on January 1,  
9272 2025:

9273 (a) Subsection 63H-6-104(2)(c), related to a Senate appointment, is repealed;

9274 (b) Subsection 63H-6-104(2)(d), related to a House appointment, is repealed;

9275 (c) in Subsection 63H-6-104(2)(e), the language that states ", of whom only one may  
9276 be a legislator, in accordance with Subsection (3)(e)," is repealed;

9277 (d) Subsection 63H-6-104(3)(a)(i) is amended to read:

9278 "(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under  
9279 Subsection (2)(e) or (f) shall serve a term that expires on the December 1 four years after the  
9280 year that the board member was appointed.";

9281 (e) in Subsections 63H-6-104(3)(a)(ii), (c)(ii), and (d), the language that states "the  
9282 president of the Senate, the speaker of the House, the governor," is repealed and replaced with  
9283 "the governor"; and

9284 (f) Subsection 63H-6-104(3)(e), related to limits on the number of legislators, is  
9285 repealed.

9286 ~~[(12)]~~ (11) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1,  
9287 2026.

9288 ~~[(13)] Section 63M-7-212 is repealed on December 31, 2019.~~

9289 ~~[(14)]~~ (12) On July 1, 2025:

9290 (a) in Subsection 17-27a-404(3)(c)(ii), the language that states "the Resource  
9291 Development Coordinating Committee," is repealed;

9292 (b) Subsection 23-14-21(2)(c) is amended to read "(c) provide notification of proposed  
9293 sites for the transplant of species to local government officials having jurisdiction over areas  
9294 that may be affected by a transplant.";

9295 (c) in Subsection 23-14-21(3), the language that states "and the Resource Development  
9296 Coordinating Committee" is repealed;

9297 (d) in Subsection 23-21-2.3(1), the language that states "the Resource Development

9298 Coordinating Committee created in Section 63J-4-501 and" is repealed;

9299 (e) in Subsection 23-21-2.3(2), the language that states "the Resource Development

9300 Coordinating Committee and" is repealed;

9301 (f) Subsection 63J-4-102(1) is repealed and the remaining subsections are renumbered

9302 accordingly;

9303 (g) Subsections 63J-4-401(5)(a) and (c) are repealed;

9304 (h) Subsection 63J-4-401(5)(b) is renumbered to Subsection 63J-4-401(5)(a) and the

9305 word "and" is inserted immediately after the semicolon;

9306 (i) Subsection 63J-4-401(5)(d) is renumbered to Subsection 63J-4-401(5)(b);

9307 (j) Sections 63J-4-501, 63J-4-502, 63J-4-503, 63J-4-504, and 63J-4-505 are repealed;

9308 and

9309 (k) Subsection 63J-4-603(1)(e)(iv) is repealed and the remaining subsections are

9310 renumbered accordingly.

9311 ~~[(15)]~~ (13) Subsection 63J-1-602.1(13), relating to the Nurse Home Visiting Restricted

9312 Account, is repealed July 1, 2026.

9313 (14) (a) Subsection 63J-1-602.1(55), relating to the Utah Statewide Radio System

9314 Restricted Account, is repealed July 1, 2022.

9315 (b) When repealing Subsection 63J-1-602.1(55), the Office of Legislative Research and

9316 General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make

9317 necessary changes to subsection numbering and cross references.

9318 ~~[(16)]~~ (15) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah

9319 Marriage Commission, is repealed July 1, 2023.

9320 ~~[(17)]~~ (16) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is

9321 repealed July 1, 2022.

9322 ~~[(18) (a) Subsection 63J-1-602.1(53), relating to the Utah Statewide Radio System~~

9323 ~~Restricted Account, is repealed July 1, 2022.]~~

9324 ~~[(b) When repealing Subsection 63J-1-602.1(53), the Office of Legislative Research~~

9325 ~~and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3),~~

9326 ~~make necessary changes to subsection numbering and cross references.]~~

9327 ~~[(19)]~~ (17) Subsection ~~63J-1-602.2~~~~[(23)]~~(24), related to the Utah Seismic Safety  
9328 Commission, is repealed January 1, 2025.

9329 ~~[(20)]~~ Subsection ~~63J-4-708~~(1), in relation to the Talent Ready Utah Board, on January  
9330 1, 2023, is amended to read:]

9331 ~~["(1) On or before October 1, the board shall provide an annual written report to the~~  
9332 ~~Social Services Appropriations Subcommittee and the Economic Development and Workforce~~  
9333 ~~Services Interim Committee.".]~~

9334 ~~[(21)]~~ (18) In relation to the Utah Substance Use and Mental Health Advisory Council,  
9335 on January 1, 2023:

9336 (a) Sections ~~63M-7-301~~, ~~63M-7-302~~, ~~63M-7-303~~, ~~63M-7-304~~, and ~~63M-7-306~~ are  
9337 repealed;

9338 (b) Section ~~63M-7-305~~, the language that states "council" is replaced with  
9339 "commission";

9340 (c) Subsection ~~63M-7-305~~(1) is repealed and replaced with:

9341 "(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

9342 (d) Subsection ~~63M-7-305~~(2) is repealed and replaced with:

9343 "(2) The commission shall:

9344 (a) provide ongoing oversight of the implementation, functions, and evaluation of the  
9345 Drug-Related Offenses Reform Act; and

9346 (b) coordinate the implementation of Section ~~77-18-1.1~~ and related provisions in  
9347 Subsections ~~77-18-1~~(5)(b)(iii) and (iv).".

9348 ~~[(22)]~~ (19) The Crime Victim Reparations and Assistance Board, created in Section  
9349 ~~63M-7-504~~, is repealed July 1, 2027.

9350 ~~[(23)]~~ (20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,  
9351 2021.

9352 ~~[(24)]~~ (21) Subsection ~~63N-1-301~~(4)(c), related to the Talent Ready Utah Board, is  
9353 repealed on January 1, 2023.

9354            [~~(25)~~] (22) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

9355            [~~(26)~~] (23) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act,  
9356 is repealed January 1, 2021.

9357            (b) Subject to Subsection [~~(26)~~] (23)(c), Sections 59-7-610 and 59-10-1007 regarding  
9358 tax credits for certain persons in recycling market development zones, are repealed for taxable  
9359 years beginning on or after January 1, 2021.

9360            (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

9361            (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
9362 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

9363            (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if  
9364 the expenditure is made on or after January 1, 2021.

9365            (d) Notwithstanding Subsections [~~(26)~~] (23)(b) and (c), a person may carry forward a  
9366 tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

9367            (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

9368            (ii) (A) for the purchase price of machinery or equipment described in Section  
9369 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,  
9370 2020; or

9371            (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the  
9372 expenditure is made on or before December 31, 2020.

9373            [~~(27)~~] (24) Section 63N-2-512 is repealed on July 1, 2021.

9374            [~~(28)~~] (25) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed  
9375 January 1, 2021.

9376            (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for  
9377 calendar years beginning on or after January 1, 2021.

9378            (c) Notwithstanding Subsection [~~(28)~~] (25)(b), an entity may carry forward a tax credit  
9379 in accordance with Section 59-9-107 if:

9380            (i) the person is entitled to a tax credit under Section 59-9-107 on or before December  
9381 31, 2020; and

9382 (ii) the qualified equity investment that is the basis of the tax credit is certified under  
9383 Section [63N-2-603](#) on or before December 31, 2023.

9384 [~~29~~] [\(26\)](#) Subsections [63N-3-109\(2\)\(e\)](#) and [63N-3-109\(2\)\(f\)\(i\)](#) are repealed July 1,  
9385 2023.

9386 [~~30~~] [\(27\)](#) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is  
9387 repealed July 1, 2023.

9388 [~~31~~] [\(28\)](#) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant  
9389 Program, is repealed January 1, 2023.

9390 [~~32~~] [\(29\)](#) In relation to the Pete Suazo Utah Athletic Commission, on January 1,  
9391 2021:

9392 (a) Subsection [63N-10-201\(2\)\(a\)](#) is amended to read:

9393 "(2) (a) The governor shall appoint five commission members with the advice and  
9394 consent of the Senate.";

9395 (b) Subsection [63N-10-201\(2\)\(b\)](#), related to legislative appointments, is repealed;

9396 (c) in Subsection [63N-10-201\(3\)\(a\)](#), the language that states ", president, or speaker,  
9397 respectively," is repealed; and

9398 (d) Subsection [63N-10-201\(3\)\(d\)](#) is amended to read:

9399 "(d) The governor may remove a commission member for any reason and replace the  
9400 commission member in accordance with this section."

9401 [~~33~~] [\(30\)](#) In relation to the Talent Ready Utah Board, on January 1, 2023:

9402 (a) Subsection [9-22-102\(16\)](#) is repealed;

9403 (b) in Subsection [9-22-114\(2\)](#), the language that states "Talent Ready Utah," is  
9404 repealed; and

9405 (c) in Subsection [9-22-114\(5\)](#), the language that states "representatives of Talent Ready  
9406 Utah," is repealed.

9407 [~~34~~] [\(31\)](#) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed  
9408 January 1, 2023.

9409 Section 110. Section [63I-2-226](#) is amended to read:



- 9410           **63I-2-226. Repeal dates -- Title 26.**
- 9411           (1) Subsection ~~26-7-8~~(3) is repealed January 1, 2027.
- 9412           (2) Section ~~26-8a-107~~ is repealed July 1, 2024.
- 9413           (3) Subsection ~~26-8a-203~~(3)(a)(i) is repealed January 1, 2023.
- 9414           ~~[(4) Subsection 26-18-2.3(5) is repealed January 1, 2020.]~~
- 9415           ~~[(5)]~~ (4) Subsection ~~26-18-2.4~~(3)(e) is repealed January 1, 2023.
- 9416           ~~[(6)]~~ (5) Subsection ~~26-18-411~~(8), related to reporting on the health coverage
- 9417 improvement program, is repealed January 1, 2023.
- 9418           ~~[(7) Subsection 26-18-604(2) is repealed January 1, 2020.]~~
- 9419           ~~[(8)]~~ (6) Subsection ~~26-21-28~~(2)(b) is repealed January 1, 2021.
- 9420           ~~[(9)]~~ (7) Subsection ~~26-33a-106.1~~(2)(a) is repealed January 1, 2023.
- 9421           ~~[(10) Subsection 26-33a-106.5(6)(c)(iii) is repealed January 1, 2020.]~~
- 9422           ~~[(11)]~~ (8) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance
- 9423 Program, is repealed July 1, 2027.
- 9424           ~~[(12) Subsection 26-50-202(7)(b) is repealed January 1, 2020.]~~
- 9425           ~~[(13) Subsections 26-54-103(6)(d)(ii) and (iii) are repealed January 1, 2020.]~~
- 9426           ~~[(14)]~~ (9) Subsection ~~26-55-107~~(8) is repealed January 1, 2021.
- 9427           ~~[(15) Subsection 26-56-103(9)(d) is repealed January 1, 2020.]~~
- 9428           ~~[(16) Title 26, Chapter 59, Telehealth Pilot Program, is repealed January 1, 2020.]~~
- 9429           ~~[(17)]~~ (10) Subsection ~~26-61-202~~(4)(b) is repealed January 1, 2022.
- 9430           ~~[(18)]~~ (11) Subsection ~~26-61-202~~(5) is repealed January 1, 2022.
- 9431           Section 111. Section **63I-2-231** is amended to read:
- 9432           **63I-2-231. Repeal dates -- Title 31A.**
- 9433           ~~[(1) Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements is repealed July~~
- 9434 ~~1, 2019.]~~
- 9435           ~~[(2) Title 31A, Chapter 30, Part 3, Individual and Small Employer Risk Adjustment~~
- 9436 ~~Act is repealed July 1, 2019.]~~
- 9437           Section 112. Section **63I-2-235** is amended to read:

9438 **63I-2-235. Repeal dates -- Title 35A.**

9439 [~~(1)~~ Section ~~35A-1-110~~ is repealed July 1, 2019.]

9440 [~~(2)~~ Section ~~35A-3-208~~ is repealed July 1, 2019.]

9441 [~~(3)~~] Subsection ~~35A-8-604~~(6) is repealed October 1, 2020.

9442 Section 113. Section **63I-2-253** is amended to read:

9443 **63I-2-253. Repeal dates -- Titles 53 through 53G.**

9444 [~~(1)~~(a) Subsections ~~53B-2a-103~~(2) and (4), regarding the composition of the UTech  
9445 Board of Trustees and the transition to that composition, are repealed July 1, 2019:]

9446 [~~(b)~~ When repealing Subsections ~~53B-2a-103~~(2) and (4), the Office of Legislative  
9447 Research and General Counsel shall, in addition to its authority under Subsection ~~36-12-12~~(3),  
9448 make necessary changes to subsection numbering and cross references.]

9449 [~~(2)~~] (1) (a) Subsection ~~53B-2a-108~~(5), regarding exceptions to the composition of a  
9450 technical college board of directors, is repealed July 1, 2022.

9451 (b) When repealing Subsection ~~53B-2a-108~~(5), the Office of Legislative Research and  
9452 General Counsel shall, in addition to its authority under Subsection ~~36-12-12~~(3), make  
9453 necessary changes to subsection numbering and cross references.

9454 [~~(3)~~] (2) Section ~~53B-6-105.7~~ is repealed July 1, 2024.

9455 [~~(4)~~] (3) (a) Subsection ~~53B-7-705~~(6)(b)(ii)(A), the language that states "Except as  
9456 provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

9457 (b) Subsection ~~53B-7-705~~(6)(b)(ii)(B), regarding comparing a technical college's  
9458 change in performance with the technical college's average performance, is repealed July 1,  
9459 2021.

9460 [~~(5)~~] (4) (a) Subsection ~~53B-7-707~~(3)(a)(ii), the language that states "Except as  
9461 provided in Subsection (3)(b)," is repealed July 1, 2021.

9462 (b) Subsection ~~53B-7-707~~(3)(b), regarding performance data of a technical college  
9463 during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

9464 [~~(6)~~] (5) Section ~~53B-8-112~~ is repealed July 1, 2024.

9465 [~~(7)~~] (6) Section ~~53B-8-114~~ is repealed July 1, 2024.

9466            ~~[(8)]~~ (7) (a) The following sections, regarding the Regents' scholarship program, are  
9467 repealed on July 1, 2023:

- 9468            (i) Section [53B-8-202](#);
- 9469            (ii) Section [53B-8-203](#);
- 9470            (iii) Section [53B-8-204](#); and
- 9471            (iv) Section [53B-8-205](#).

9472            (b) (i) Subsection [53B-8-201](#)(2), regarding the Regents' scholarship program for  
9473 students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

9474            (ii) When repealing Subsection [53B-8-201](#)(2), the Office of Legislative Research and  
9475 General Counsel shall, in addition to its authority under Subsection [36-12-12](#)(3), make  
9476 necessary changes to subsection numbering and cross references.

9477            ~~[(9)]~~ (8) Section [53B-10-101](#) is repealed on July 1, 2027.

9478            ~~[(10)]~~ (9) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is  
9479 repealed July 1, 2023.

9480            ~~[(11)]~~ (10) Section [53E-3-519](#) regarding school counselor services is repealed July 1,  
9481 2020.

9482            ~~[(12)]~~ (11) Section [53E-3-520](#) is repealed July 1, 2021.

9483            ~~[(13)]~~ (12) Subsection [53E-5-306](#)(3)(b)(ii)(B), related to improving school  
9484 performance and continued funding relating to the School Recognition and Reward Program, is  
9485 repealed July 1, 2020.

9486            ~~[(14)]~~ (13) Section [53E-5-307](#) is repealed July 1, 2020.

9487            ~~[(15)]~~ (14) In Subsections [53F-2-205](#)(4) and (5), regarding the State Board of  
9488 Education's duties if contributions from the minimum basic tax rate are overestimated or  
9489 underestimated, the language that states "or [53F-2-301.5](#), as applicable" is repealed July 1,  
9490 2023.

9491            ~~[(16)]~~ (15) Subsection [53F-2-301](#)(1), relating to the years the section is not in effect, is  
9492 repealed July 1, 2023.

9493            ~~[(17)]~~ (16) In Subsection [53F-2-515](#)(1), the language that states "or [53F-2-301.5](#), as

9494 applicable" is repealed July 1, 2023.

9495 [~~(18)~~ Section ~~53F-4-204~~ is repealed July 1, 2019.]

9496 [~~(19)~~ (17) In Subsection ~~53F-9-302~~(3), the language that states "or ~~53F-2-301.5~~, as  
9497 applicable" is repealed July 1, 2023.

9498 [~~(20)~~ (18) In Subsection ~~53F-9-305~~(3)(a), the language that states "or ~~53F-2-301.5~~, as  
9499 applicable" is repealed July 1, 2023.

9500 [~~(21)~~ (19) In Subsection ~~53F-9-306~~(3)(a), the language that states "or ~~53F-2-301.5~~, as  
9501 applicable" is repealed July 1, 2023.

9502 [~~(22)~~ (20) In Subsection ~~53G-3-304~~(1)(c)(i), the language that states "or ~~53F-2-301.5~~,  
9503 as applicable" is repealed July 1, 2023.

9504 [~~(23)~~ (21) On July 1, 2023, when making changes in this section, the Office of  
9505 Legislative Research and General Counsel shall, in addition to the office's authority under  
9506 Subsection ~~36-12-12~~(3), make corrections necessary to ensure that sections and subsections  
9507 identified in this section are complete sentences and accurately reflect the office's perception of  
9508 the Legislature's intent.

9509 Section 114. Section ~~63I-2-258~~ is amended to read:

9510 **~~63I-2-258. Repeal dates -- Title 58.~~**

9511 [~~Subsection ~~58-37f-303~~(7) is repealed January 1, 2019.~~]

9512 Section 115. Section ~~63I-2-259~~ is amended to read:

9513 **~~63I-2-259. Repeal dates -- Title 59.~~**

9514 [~~(1) Section ~~59-1-102~~ is repealed on May 14, 2019.~~]

9515 [~~(2)~~] In Section ~~59-2-926~~, the language that states "applicable" and "or ~~53F-2-301.5~~" is  
9516 repealed July 1, 2023.

9517 [~~(3) Subsection ~~59-2-1007~~(15) is repealed on December 31, 2018.~~]

9518 Section 116. Section ~~63I-2-263~~ is amended to read:

9519 **~~63I-2-263. Repeal dates, Title 63A to Title 63N.~~**

9520 (1) On July 1, 2020:

9521 (a) Subsection ~~63A-1-203~~(5)(a)(i) is repealed; and

9522 (b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after  
9523 May 8, 2018," is repealed.

9524 (2) Sections 63C-4a-307 and 63C-4a-309 are repealed January 1, 2020.

9525 (3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is  
9526 repealed July 1, 2020.

9527 (4) The following sections regarding the World War II Memorial Commission are  
9528 repealed on July 1, 2020:

9529 (a) Section 63G-1-801;

9530 (b) Section 63G-1-802;

9531 (c) Section 63G-1-803; and

9532 (d) Section 63G-1-804.

9533 (5) In relation to the State Fair Park Committee, on January 1, 2021:

9534 (a) Section 63H-6-104.5 is repealed; and

9535 (b) Subsections 63H-6-104(8) and (9) are repealed.

9536 (6) Section 63H-7a-303 is repealed on July 1, 2022.

9537 (7) In relation to the Employability to Careers Program Board, on July 1, 2022:

9538 (a) Subsection 63J-1-602.1~~[(52)]~~(56) is repealed;

9539 (b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed;

9540 and

9541 (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

9542 [~~(8) Section 63J-4-708 is repealed January 1, 2023.~~]

9543 Section 117. Section 63I-2-272 is amended to read:

9544 **63I-2-272. Repeal dates -- Title 72.**

9545 ~~[(1)]~~ Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory  
9546 Committee, are repealed January 1, 2022.

9547 ~~[(2) On July 1, 2018:]~~

9548 ~~[(a) in Subsection 72-2-108(2), the language that states "and except as provided in~~  
9549 ~~Subsection (10)" is repealed; and]~~

9550            [~~(b) in Subsection 72-2-108(4)(c)(ii)(A), the language that states "~~excluding any  
9551 amounts appropriated as additional support for class B and class C roads under Subsection  
9552 ~~(10),"~~ is repealed.]

9553            [~~(3) Section 72-3-113 is repealed January 1, 2020.~~]

9554            Section 118. Section **63J-4-608** is amended to read:

9555            **63J-4-608. Facilitating the acquisition of federal land -- Advisory committee.**

9556            (1) As used in this section:

9557            (a) "Advisory committee" means the committee established under Subsection (3).

9558            (b) "Federal land" means land that the secretary is authorized to dispose of under the  
9559 federal land disposal law.

9560            (c) "Federal land disposal law" means the Recreation and Public Purposes Act, 43  
9561 U.S.C. Sec. 869 et seq.

9562            (d) "Government entity" means any state or local government entity allowed to submit  
9563 a land application under the federal land disposal law.

9564            (e) "Land application" means an application under the federal land disposal law  
9565 requesting the secretary to sell or lease federal land.

9566            (f) "Land application process" means all actions involved in the process of submitting  
9567 and obtaining a final decision on a land application.

9568            (g) "Secretary" means the Secretary of the Interior of the United States.

9569            (2) The coordinator and the office shall:

9570            (a) develop expertise:

9571            (i) in the land application process; and

9572            (ii) concerning the factors that tend to increase the chances that a land application will  
9573 result in the secretary selling or leasing federal land as requested in the land application;

9574            (b) work to educate government entities concerning:

9575            (i) the availability of federal land pursuant to the federal land disposal law; and

9576            (ii) the land application process;

9577            (c) advise and consult with a government entity that requests assistance from the

9578 coordinator or the office to formulate and submit a land application and to pursue a decision on  
9579 the land application;

9580 (d) advise and consult with a government entity that requests assistance from the  
9581 coordinator or the office to identify and quantify the amount of any funds needed to provide the  
9582 public use described in a land application;

9583 (e) with the advice and recommendations of the advisory committee:

9584 (i) adopt a list of factors to be considered in determining the degree to which a land  
9585 application or potential land application is in the public interest; and

9586 (ii) recommend a prioritization of all land applications or potential land applications in  
9587 the state according to the extent to which the land applications are in the public interest, based  
9588 on the factors adopted under Subsection (2)(f)(i);

9589 (f) prepare and submit a written report of land applications:

9590 (i) to the Natural Resources, Agriculture, and Environment Interim Committee and the  
9591 Federalism Commission [~~for the Stewardship of Public Lands~~];

9592 (ii) (A) annually no later than August 31; and

9593 (B) at other times, if and as requested by the committee or commission; and

9594 (iii) (A) on the activities of the coordinator and the office under this section;

9595 (B) on the land applications and potential land applications in the state; and

9596 (C) on the decisions of the secretary on land applications submitted by government  
9597 entities in the state and the quantity of land acquired under the land applications;

9598 (g) present a summary of information contained in the report described in Subsection  
9599 (3)(f):

9600 (i) at a meeting of the Natural Resources, Agriculture, and Environment Interim  
9601 Committee and at a meeting of the Federalism Commission [~~for the Stewardship of Public  
9602 Lands~~];

9603 (ii) annually no later than August 31; and

9604 (iii) at other times, if and as requested by the committee or commission; and

9605 (h) report to the Executive Appropriations Committee of the Legislature, as frequently

9606 as the coordinator considers appropriate or as requested by the committee, on the need for  
9607 legislative appropriations to provide funds for the public purposes described in land  
9608 applications.

9609 (3) (a) There is created a committee comprised of:

9610 (i) an individual designated by the chairs of the Federalism Commission [~~for the~~  
9611 ~~Stewardship of Public Lands~~];

9612 (ii) an individual designated by the director of the Division of Facilities Construction  
9613 and Management;

9614 (iii) a representative of the Antiquities Section, created in Section 9-8-304, designated  
9615 by the director of the Division of State History;

9616 (iv) a representative of municipalities designated by the Utah League of Cities and  
9617 Towns;

9618 (v) a representative of counties designated by the Utah Association of Counties;

9619 (vi) an individual designated by the Governor's Office of Economic Development; and

9620 (vii) an individual designated by the director of the Division of Parks and Recreation,  
9621 created in Section 79-4-201.

9622 (b) The seven members of the advisory committee under Subsection (3)(a) may, by  
9623 majority vote, appoint up to four additional volunteer members of the advisory committee.

9624 (c) The advisory committee shall advise and provide recommendations to the  
9625 coordinator and the office on:

9626 (i) factors the coordinator and office should consider in determining the degree to  
9627 which a land application or potential land application is in the public interest; and

9628 (ii) the prioritization of land applications or potential land applications in the state  
9629 according to the extent to which the land applications are in the public interest, based on the  
9630 factors adopted under Subsection (2)(f)(i).

9631 (d) A member of the advisory committee may not receive compensation, benefits, or  
9632 expense reimbursement for the member's service on the advisory committee.

9633 (e) The advisory committee may:



9634 (i) select a chair from among the advisory committee members; and  
9635 (ii) meet as often as necessary to perform the advisory committee's duties under this  
9636 section.

9637 (f) The coordinator shall facilitate the convening of the first meeting of the advisory  
9638 committee.

9639 Section 119. Section **63M-2-503** is amended to read:

9640 **63M-2-503. USTAR grant programs.**

9641 (1) USTAR shall establish at least one competitive grant program that:

9642 (a) is designed to:

9643 (i) address market gaps in technology development in the state; or

9644 (ii) facilitate research and development of promising technologies;

9645 (b) does not overlap with or duplicate other state funded programs; and

9646 (c) offers grants, on a competitive basis, to:

9647 (i) researchers employed by higher education institutions;

9648 (ii) private entities; or

9649 (iii) partnerships between researchers employed by higher education institutions and  
9650 private entities.

9651 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
9652 USTAR shall make rules that describe, for each grant program:

9653 (a) the purpose;

9654 (b) eligibility criteria to receive a grant;

9655 (c) how USTAR determines which proposals receive grants;

9656 (d) reporting requirements in accordance with Part 7, Reporting by Recipients of  
9657 USTAR Support; and

9658 (e) other information USTAR determines is necessary or appropriate.

9659 (3) USTAR:

9660 (a) shall solicit proposals for each grant program; and

9661 (b) may, subject to legislative appropriation and Subsection [63M-2-502\(1\)\(b\)](#), award

9662 grants for each program.

9663 (4) In evaluating a grant proposal received in response to a solicitation under this  
9664 section, USTAR shall consider, as applicable:

9665 (a) the extent to which the planned research has the potential for commercialization;

9666 (b) the market gap the technology or research fills; and

9667 (c) other factors USTAR determines are relevant, important, or necessary.

9668 (5) USTAR shall require a recipient of a grant under this section, as a condition of  
9669 receiving a grant, to comply with the reporting requirements described in ~~[(a) Section~~  
9670 ~~63M-2-702, for a USTAR researcher, or (b)]~~ Section 63M-2-703, for a private entity or for a  
9671 partnership between a USTAR researcher and a private entity.

9672 (6) Beginning on July 1, 2019, USTAR:

9673 (a) may not establish any new competitive grant programs;

9674 (b) may not award new grants related to any existing competitive grant program; and

9675 (c) may continue to pay grant money for a grant awarded before July 1, 2019, in

9676 accordance with the written terms of the grant.

9677 Section 120. Section 63M-2-504 is amended to read:

9678 **63M-2-504. Other USTAR support.**

9679 (1) USTAR may:

9680 (a) provide mentoring, networking, and entrepreneurial training for a private entity or  
9681 USTAR researcher to help take a new technology to market;

9682 (b) provide support to a private entity or USTAR researcher in assessing the potential  
9683 for bringing a technology to market; and

9684 (c) encourage industry partnerships between a private entity and a USTAR researcher.

9685 (2) USTAR shall require a recipient of USTAR support under this section, as a

9686 condition of receiving USTAR support, to comply with the reporting requirements in ~~[(a)~~

9687 ~~Section 63M-2-702, for a USTAR researcher, or (b)]~~ Section 63M-2-703, for a private entity or  
9688 for a partnership between a USTAR researcher and a private entity.

9689 Section 121. Section 63M-7-202 is amended to read:

9690           **63M-7-202. Composition -- Appointments -- Ex officio members -- Terms --**  
9691 **United States Attorney as nonvoting member.**

9692           (1) The commission on criminal and juvenile justice shall be composed of 25 voting  
9693 members as follows:

9694           (a) the chief justice of the supreme court, as the presiding officer of the judicial  
9695 council, or a judge designated by the chief justice;

9696           (b) the state court administrator or the state court administrator's designee;

9697           (c) the executive director of the Department of Corrections or the executive director's  
9698 designee;

9699           (d) the executive director of the Department of Human Services or the executive  
9700 director's designee;

9701           (e) the commissioner of the Department of Public Safety or the commissioner's  
9702 designee;

9703           (f) the attorney general or an attorney designated by the attorney general;

9704           (g) the president of the chiefs of police association or a chief of police designated by  
9705 the association's president;

9706           (h) the president of the sheriffs' association or a sheriff designated by the association's  
9707 president;

9708           (i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons  
9709 and Parole designated by the chair;

9710           (j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing  
9711 Commission designated by the chair;

9712           (k) the chair of the Utah Substance Use and Mental Health Advisory Council or a  
9713 member of the Utah Substance Use and Mental Health Advisory Council designated by the  
9714 chair;

9715           (l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of  
9716 Juvenile Justice designated by the chair;

9717           (m) the chair of the Utah Council on Victims of Crime [~~or the chair's designee~~] or a

9718 member of the Utah Council on Victims of Crime designated by the chair;

9719           (n) the executive director of the Salt Lake Legal Defender Association or an attorney

9720 designated by the executive director;

9721           (o) the chair of the Utah Indigent Defense Commission or a member of the Indigent

9722 Defense Commission designated by the chair;

9723           (p) the Salt Lake County District Attorney or an attorney designated by the district

9724 attorney; and

9725           (q) the following members designated to serve four-year terms:

9726           (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the

9727 Judicial Council;

9728           (ii) a representative of the statewide association of public attorneys designated by the

9729 association's officers;

9730           (iii) one member of the House of Representatives who is appointed by the speaker of

9731 the House of Representatives; and

9732           (iv) one member of the Senate who is appointed by the president of the Senate.

9733           (2) The governor shall appoint the remaining five members to four-year staggered

9734 terms as follows:

9735           (a) one criminal defense attorney appointed from a list of three nominees submitted by

9736 the Utah State Bar Association;

9737           (b) one attorney who primarily represents juveniles in delinquency matters appointed

9738 from a list of three nominees submitted by the Utah Bar Association;

9739           (c) one representative of public education;

9740           (d) one citizen representative; and

9741           (e) a representative from a local faith who has experience with the criminal justice

9742 system.

9743           (3) In addition to the members designated under Subsections (1) and (2), the United

9744 States Attorney for the district of Utah or an attorney designated by the United States Attorney

9745 may serve as a nonvoting member.

9746 (4) In appointing the members under Subsection (2), the governor shall take into  
9747 account the geographical makeup of the commission.

9748 Section 122. Section **63M-13-202** is amended to read:

9749 **63M-13-202. Duties of the commission.**

9750 (1) The responsibilities of the commission include:

9751 (a) supporting Utah parents and families, who have family members that are in early  
9752 childhood, by providing comprehensive and accurate information regarding the availability of  
9753 voluntary services that are available to children in early childhood from state agencies and  
9754 other private and public entities;

9755 (b) facilitating improved coordination between state agencies and community partners  
9756 that provide services to children in early childhood;

9757 (c) sharing and analyzing information regarding early childhood issues in the state;

9758 (d) developing and coordinating a comprehensive delivery system of services for  
9759 children in early childhood that addresses the following four areas:

9760 (i) family support and safety;

9761 (ii) health and development;

9762 (iii) early learning; and

9763 (iv) economic development; and

9764 (e) identifying opportunities for and barriers to the alignment of standards, rules,  
9765 policies, and procedures across programs and agencies that support children in early childhood.

9766 (2) To fulfill the responsibilities described in Subsection (1), the commission shall:

9767 (a) directly engage with parents, families, community members, and public and private  
9768 service providers to identify and address:

9769 (i) the quality, effectiveness, and availability of existing services for children in early  
9770 childhood and the coordination of those services;

9771 (ii) gaps and barriers to entry in the provision of services for children in early  
9772 childhood; and

9773 (iii) community-based solutions in improving the quality, effectiveness, and

9774 availability of services for children in early childhood;

9775 (b) seek regular and ongoing feedback from a wide range of entities and individuals  
9776 that use or provide services for children in early childhood, including entities and individuals  
9777 that use, represent, or provide services for any of the following:

9778 (i) children in early childhood who live in urban, suburban, or rural areas of the state;

9779 (ii) children in early childhood with varying socioeconomic backgrounds;

9780 (iii) children in early childhood with varying ethnic or racial heritage;

9781 (iv) children in early childhood from various geographic areas of the state; and

9782 (v) children in early childhood with special needs;

9783 (c) study, evaluate, and report on the status and effectiveness of policies, procedures,  
9784 and programs that provide services to children in early childhood;

9785 (d) study and evaluate the effectiveness of policies, procedures, and programs  
9786 implemented by other states and nongovernmental entities that address the needs of children in  
9787 early childhood;

9788 (e) identify policies, procedures, and programs that are impeding efforts to help  
9789 children in early childhood in the state and recommend and implement changes to those  
9790 policies, procedures, and programs;

9791 (f) identify policies, procedures, and programs related to children in early childhood in  
9792 the state that are inefficient or duplicative and recommend and implement changes to those  
9793 policies, procedures, and programs;

9794 (g) recommend policy, procedure, and program changes to address the needs of  
9795 children in early childhood;

9796 (h) develop methods for using interagency information to inform comprehensive policy  
9797 and budget decisions relating to early childhood services;

9798 (i) develop, recommend, and coordinate a comprehensive delivery system of services  
9799 for children in early childhood; and

9800 (j) develop strategies and monitor efforts concerning:

9801 (i) increasing school readiness;

9802 (ii) improving access to child care and early education programs; and  
 9803 (iii) improving family and community engagement in early childhood education and  
 9804 development.

9805 (3) In fulfilling the duties of the commission, the commission shall collaborate with the  
 9806 Early Childhood Utah Advisory Council created in Section ~~[22-66-201]~~ 26-66-201.

9807 (4) In fulfilling the commission's duties, the commission may:

9808 (a) request and receive, from any state or local governmental agency or institution,  
 9809 information relating to early childhood, including reports, audits, projections, and statistics;  
 9810 and

9811 (b) appoint special advisory groups to advise and assist the commission.

9812 (5) Members of a special advisory group described in Subsection (4)(b):

9813 (a) shall be appointed by the commission;

9814 (b) may include:

9815 (i) members of the commission; and

9816 (ii) individuals from the private or public sector; and

9817 (c) may not receive reimbursement or pay for work done in relation to the special  
 9818 advisory group.

9819 (6) A special advisory group created in accordance with Subsection (4)(b) shall report  
 9820 to the commission on the progress of the special advisory group.

9821 Section 123. Section **63N-1-501** is amended to read:

9822 **63N-1-501. Governor's Economic Development Coordinating Council --**  
 9823 **Membership -- Expenses.**

9824 (1) There is created in the office the Governor's Economic Development Coordinating  
 9825 Council, consisting of the following ~~[11]~~ 10 members:

9826 (a) the executive director, who shall serve as chair of the council;

9827 (b) the chair of the board or the chair's designee;

9828 ~~[(c) the chair of the Utah Science Technology and Research Governing Authority~~  
 9829 ~~created in Section 63M-2-301 or the chair's designee;]~~

9830           ~~[(d)]~~ (c) the chair of the Governor's Rural Partnership Board created in Section  
9831 63C-10-102 or the chair's designee;

9832           ~~[(e)]~~ (d) the chair of the board of directors of the Utah Capital Investment Corporation  
9833 created in Section 63N-6-301 or the chair's designee;

9834           ~~[(f)]~~ (e) the chair of the Economic Development Corporation of Utah or its successor  
9835 organization or the chair's designee;

9836           ~~[(g)]~~ (f) the chair of the World Trade Center Utah or its successor organization or the  
9837 chair's designee; and

9838           ~~[(h)]~~ (g) four members appointed by the governor, with the consent of the Senate, who  
9839 have expertise in business, economic development, entrepreneurship, or the raising of venture  
9840 or seed capital for research and business growth.

9841           (2) (a) The four members appointed by the governor may serve for no more than two  
9842 consecutive two-year terms.

9843           (b) The governor shall appoint a replacement if a vacancy occurs from the membership  
9844 appointed under Subsection (1)~~[(h)]~~(g).

9845           (3) Six members of the council constitute a quorum for the purpose of conducting  
9846 council business and the action of a majority of a quorum constitutes the action of the council.

9847           (4) A member may not receive compensation or benefits for the member's service on  
9848 the council, but may receive per diem and travel expenses in accordance with:

9849           (a) Sections 63A-3-106 and 63A-3-107; and

9850           (b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

9851           (5) The office shall provide office space and administrative staff support for the  
9852 council.

9853           (6) The council, as a governmental entity, has all the rights, privileges, and immunities  
9854 of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open  
9855 and Public Meetings Act.

9856           Section 124. Section 63N-4-302 is amended to read:

9857           **63N-4-302. Definitions.**



9858 As used in this part:

9859 (1) (a) "Affiliate" means a person that directly, or indirectly through one or more  
9860 intermediaries, controls, is controlled by, or is under common control with another person.

9861 (b) For the purposes of this part, a person controls another person if the person holds,  
9862 directly or indirectly, the majority voting or ownership interest in the controlled person or has  
9863 control over the day-to-day operations of the controlled person by contract or by law.

9864 (2) "Claimant" means a resident or nonresident person that has state taxable income.

9865 (3) "Closing date" means the date on which a rural investment company has collected  
9866 all of the investments described in Subsection 63N-4-303(7).

9867 (4) (a) "Credit-eligible contribution" means an investment of cash by a claimant in a  
9868 rural investment company that is or will be eligible for a tax credit as evidenced by notification  
9869 issued by the office under Subsection 63N-4-303(5)(c).

9870 (b) The investment shall purchase an equity interest in the rural investment company or  
9871 purchase, at par value or premium, a debt instrument issued by the rural investment company  
9872 that has a maturity date at least five years after the closing date.

9873 (5) "Eligible small business" means a business that at the time of an initial growth  
9874 investment in the business by a rural investment company:

9875 (a) has fewer than 150 employees;

9876 (b) has less than \$10,000,000 in net income for the preceding taxable year;

9877 (c) maintains the business's principal business operations in the state; and

9878 (d) is engaged in an industry related to:

9879 (i) aerospace;

9880 (ii) defense;

9881 (iii) energy and natural resources;

9882 (iv) financial services;

9883 (v) life sciences;

9884 (vi) outdoor products;

9885 (vii) software development;

9886 (viii) information technology;

9887 (ix) manufacturing; or

9888 (x) agribusiness.

9889 (6) (a) "Excess return" means the difference between:

9890 (i) the present value of all growth investments made by a rural investment company on  
9891 the day the rural investment company applies to exit the program under Section [63N-4-309](#),  
9892 including the present value of all distributions and gains from the growth investments; and

9893 (ii) the sum of the amount of the original growth investment and an amount equal to  
9894 any projected increase in the equity holder's federal or state tax liability, including penalties and  
9895 interest, related to the equity holder's ownership, management, or operation of the rural  
9896 investment company.

9897 (b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is  
9898 equal to zero.

9899 (7) "Federally licensed rural business investment company" means a person licensed as  
9900 a rural business investment company under 7 U.S.C. Sec. 2009cc.

9901 (8) "Federally licensed small business investment company" means a person licensed  
9902 as a small business investment company under 15 U.S.C. Sec. 681.

9903 (9) (a) "Full-time employee" means an employee that throughout the year works at  
9904 least 30 hours per week or meets the customary practices accepted by that industry as full time.

9905 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
9906 office may make rules that establish additional hour or other criteria to determine what  
9907 constitutes a full-time employee.

9908 (10) "Growth investment" means any capital or equity investment in an eligible small  
9909 business or any loan made from the investment authority to an eligible small business with a  
9910 stated maturity at least one year after the date of issuance.

9911 (11) (a) "High wage" means a wage that is at least 100% of the county average wage.

9912 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
9913 office may make rules that establish additional criteria to determine what constitutes a high

9914 wage.

9915 (12) "Investment authority" means the minimum amount of investment a rural  
9916 investment company must make in eligible small businesses in order for credit-eligible  
9917 contributions to the rural investment company to qualify for a rural job creation tax credit  
9918 under Section 59-7-621 or 59-10-1038.

9919 (13) (a) "New annual jobs" means the difference between:

9920 (i) (A) the monthly average of full-time employees that are paid a high wage at an  
9921 eligible small business for the preceding calendar year; or

9922 (B) if the preceding calendar year contains the initial growth investment, the monthly  
9923 average of full-time employees that are paid a high wage at an eligible small business for the  
9924 months including and after the initial growth investment and before the end of the preceding  
9925 calendar year; and

9926 (ii) the number of full-time employees that are paid a high wage at the eligible small  
9927 business on the date of the initial growth investment.

9928 (b) If the amount calculated in Subsection [~~(2)~~] (13)(a) is less than zero, the new  
9929 annual jobs amount is equal to zero.

9930 (14) (a) "Principal business operations" means the location where at least 60% of a  
9931 business's employees work or where employees that are paid at least 60% of a business's  
9932 payroll work.

9933 (b) For the purposes of this part, an out-of-state business that agrees to relocate  
9934 employees to this state to establish the business's principal business operations in this state  
9935 using the proceeds of a growth investment is considered to have the business's principal  
9936 business operations in this state if the business satisfies the requirements of Subsection (14)(a)  
9937 within 180 days after receiving the growth investment, unless the office agrees to a later date.

9938 (15) "Program" means the provisions of this part applicable to a rural investment  
9939 company.

9940 (16) "Rural county" means any county in this state except Salt Lake, Utah, Davis,  
9941 Weber, Washington, Cache, Tooele, and Summit counties.

9942 (17) "Rural investment company" means a person approved by the office under Section  
9943 63N-4-303.

9944 (18) (a) "State reimbursement amount" means the difference between:

9945 (i) 50% of the rural investment company's credit-eligible capital contributions; and

9946 (ii) the product of:

9947 (A) the total sum of new annual jobs reported to the state in the rural investment

9948 company's exit report described in Section 63N-4-309; and

9949 (B) \$20,000.

9950 (b) If the amount calculated in Subsection (18)(a) is less than zero, the state

9951 reimbursement amount is equal to zero.

9952 (19) "Tax credit" means a rural job creation tax credit created by Section 59-7-621 or

9953 59-10-1038.

9954 (20) "Tax credit certificate" means a certificate issued by the office that:

9955 (a) lists the name of the person to which the office authorizes a tax credit;

9956 (b) lists the person's taxpayer identification number;

9957 (c) lists the amount of tax credit that the office authorizes the person to claim for the

9958 taxable year; and

9959 (d) may include other information as determined by the office.

9960 Section 125. Section 64-13e-102 is amended to read:

9961 **64-13e-102. Definitions.**

9962 As used in this chapter:

9963 (1) "Actual state daily incarceration rate" means the daily incarceration rate that reflects

9964 the actual expenses of the department, including:

9965 (a) executive overhead;

9966 (b) administrative overhead;

9967 (c) transportation overhead;

9968 (d) division overhead;

9969 (e) motor pool expenses;

- 9970 (f) medical expenses;
- 9971 (g) mental health expenses;
- 9972 (h) dental expenses;
- 9973 (i) straight line capital depreciation, over a 40-year period, for prison facilities of the
- 9974 department; and
- 9975 (j) expenses for treatment, including substance abuse treatment, alcohol abuse
- 9976 treatment, sex offender treatment, and alternative treatment.
- 9977 (2) "Alternative treatment" means:
- 9978 (a) evidence-based cognitive behavioral therapy; or
- 9979 (b) a certificate-based program provided by a Utah technical college, as defined in
- 9980 [Subsection] Section 53B-26-102~~(f)(8)~~.
- 9981 (3) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in
- 9982 Section 63M-7-201.
- 9983 (4) "Department" means the Department of Corrections.
- 9984 (5) "Division of Finance" means the Division of Finance, created in Section
- 9985 63A-3-101.
- 9986 (6) "Final state daily incarceration rate" means the average actual state daily
- 9987 incarceration rate, calculated, reviewed, and discussed under Section 64-13e-105, and approved
- 9988 by the Legislature under Subsection 64-13e-105(3).
- 9989 (7) "State inmate" means an individual, other than a state probationary inmate or state
- 9990 parole inmate, who is committed to the custody of the department.
- 9991 (8) "State parole inmate" means an individual who is:
- 9992 (a) on parole, as defined in Section 77-27-1; and
- 9993 (b) housed in a county jail for a reason related to the individual's parole.
- 9994 (9) "State probationary inmate" means a felony probationer sentenced to time in a
- 9995 county jail under Subsection 77-18-1(8).
- 9996 (10) "Treatment program" means:
- 9997 (a) an alcohol treatment program;

- 9998 (b) a substance abuse treatment program;
- 9999 (c) a sex offender treatment program; or
- 10000 (d) an alternative treatment program.

10001 Section 126. Section **72-16-306** is amended to read:

10002 **72-16-306. Reporting and shutdown for certain injuries.**

10003 (1) (a) An owner-operator shall report each known reportable serious injury to the  
10004 director within eight hours after the owner-operator learns of the reportable serious injury.

10005 (b) An owner-operator shall include the following information in a report described in  
10006 Subsection (1)(a):

10007 (i) the owner-operator's name and [~~contract~~] contact information;

10008 (ii) the location of the amusement ride at the time the reportable serious injury  
10009 occurred;

10010 (iii) a description of:

10011 (A) the amusement ride; and

10012 (B) the nature of the reportable serious injury; and

10013 (iv) any other information required by rule made under this chapter.

10014 (2) (a) In addition to the requirement described in Subsection (1), an owner-operator of  
10015 a mobile amusement ride shall report each known serious injury to the fair, show, landlord, or  
10016 owner of the property upon which the mobile amusement ride was located at the time the  
10017 serious injury occurred.

10018 (b) After a serious injury, the owner-operator may not operate the mobile amusement  
10019 ride until the owner-operator receives written authorization from:

10020 (i) the fair, show, landlord, or owner of the property upon which the amusement ride  
10021 was located at the time the serious injury occurred; or

10022 (ii) the director.

10023 (3) For purposes of Title 63G, Chapter 2, Government Records Access and  
10024 Management Act, a report to the director described in this section and any record related to the  
10025 report is a protected record as defined in Section [63G-2-103](#), except the ride description, the

10026 owner-operator, the location of the amusement ride at the time the reportable injury occurred,  
10027 and the general nature of the reportable injury.

10028 Section 127. Section **73-10-1** is amended to read:

10029 **73-10-1. State's policy -- Creation of revolving fund -- General construction of**  
10030 **chapter.**

10031 (1) (a) The Legislature of the state of Utah [~~having~~] has heretofore declared:

10032 (i) by Section **73-1-1**, Utah Code Annotated 1953, that, "All waters [~~of~~] in this state,  
10033 whether above or under the ground, are hereby declared to be the property of the public, subject  
10034 to all existing rights to the use thereof"; [~~and further,~~]

10035 (ii) by Section **73-1-3**, Utah Code Annotated 1953, that "Beneficial use shall be the  
10036 basis, the [~~measures~~] measure and the limit of all rights to the use of water in this state"; and  
10037 [~~further,~~]

10038 (iii) by Section **17B-2a-1002** that the policy of the state is, to "~~To~~ obtain from water  
10039 in [~~Utah~~] the state the highest duty for domestic uses and irrigation of lands in [~~Utah~~] the state  
10040 within the terms of applicable interstate compacts [~~or otherwise,~~ " now by this act] and other  
10041 law."

10042 (b) The Legislature by this chapter reiterates and reaffirms such declaration of the  
10043 public policy of the state of Utah.

10044 (2) It is further declared to be the policy of this chapter and of the state of Utah, and the  
10045 legislature recognizes:

10046 (a) that by construction of projects based upon sound engineering the waters within the  
10047 various counties of the state of Utah can be saved from waste and increased in efficiency of  
10048 beneficial use by 25% to 100%;

10049 (b) that because of well-known conditions such as low prices and lack of market for  
10050 farm products, particularly the inefficiency of water supply because of lack of late season water  
10051 and consequent lack of financial strength, water users in small communities have been unable  
10052 to build projects that would provide full conservation and beneficial use for the limited water  
10053 supply in this semiarid land;

10054 (c) that water, as the property of the public, should be so managed by the public that it  
10055 can be put to the highest use for public benefit;

10056 (d) that Congress of the United States has provided for the building of larger water  
10057 conservation projects throughout the semiarid states, payment of the capital costs without  
10058 interest to be made by the water users upon the basis of a fair portion of crop returns;

10059 (e) that the Congress of the United States has established in the department of interior  
10060 and in the department of agriculture, various agencies having authority to develop, protect, and  
10061 aid in putting to beneficial use the land and water resources of the United States and to  
10062 cooperate with state agencies having similar authority;

10063 (f) that the interests of the state of Utah require that means be provided for close  
10064 cooperation between all state and federal agencies to the end that the underground waters and  
10065 waters of the small streams of the state, and the lands thereunder, can be made to yield  
10066 abundantly and increase the income and well-being of the citizens of the state;

10067 (g) that it appears to be sound public policy for the state of Utah to provide a revolving  
10068 fund, to be increased at each legislative session, to the end that every mountain stream and  
10069 every water resource within the state can be made to render the highest beneficial service, such  
10070 fund to be so administered that no project will be built except upon expert engineering,  
10071 financial, and geological approval.

10072 (3) All of the provisions of this chapter shall be liberally construed so as to carry out  
10073 and put into force and effect the purposes and policies as hereinabove set forth.

10074 Section 128. Section **75-9-105** is amended to read:

10075 **75-9-105. Execution of power of attorney.**

10076 (1) A power of attorney shall be signed by the principal or in the principal's conscious  
10077 presence by another individual directed by the principal to sign the principal's name on the  
10078 power of attorney before a notary public or other individual authorized by the law to take  
10079 acknowledgments. A signature on a power of attorney is presumed to be genuine if the  
10080 principal acknowledges the signature before a notary public or other individual authorized by  
10081 law to take acknowledgments.



10082 (2) If the principal resides or is about to reside in a hospital, assisted living, skilled  
10083 nursing, or similar facility, at the time of execution of the power of attorney, the principal may  
10084 not name any agent that is the owner, operator, health care provider, or employee of the  
10085 hospital, assisted living facility, skilled nursing, or similar residential care facility unless the  
10086 agent is the spouse, legal guardian, or next of kin of the principal, or unless the agent's  
10087 authority is strictly limited to the purpose of assisting the principal to establish eligibility for  
10088 Medicaid.

10089 (3) A violation of Subsection (2) is a violation of Subsection 76-5-111~~(4)~~(9)(a).  
10090 Section 129. Section 76-5-702 is amended to read:

10091 **76-5-702. Prohibition on female genital mutilation -- Exceptions.**

10092 (1) It is a second degree felony for any person to:

10093 (a) perform a procedure described in Section 76-5-701 on a female under 18 years of  
10094 age;

10095 (b) give permission for or permit a procedure described in Section 76-5-701 to be  
10096 performed on a female under 18 years of age; or

10097 (c) remove or cause, permit, or facilitate the removal of a female under 18 years of age  
10098 from this state for the purpose of facilitating the performance of a procedure described in  
10099 Section 76-5-701 on the female.

10100 (2) It is not a defense to female genital mutilation that the conduct described in Section  
10101 76-5-701 is required as a matter of religion, custom, ritual, or standard practice, or that the  
10102 individual on whom it is performed or the individual's parent or guardian consented to the  
10103 procedure.

10104 (3) A surgical procedure is not a violation of Section 76-5-701 if the procedure is  
10105 performed by a physician licensed as a medical professional in the place it is performed and is:

10106 (a) medically advisable;

10107 (b) necessary to preserve or protect the physical health of the person on whom it is  
10108 performed; or

10109 (c) requested for sex reassignment surgery by the person on whom it is performed.

10110 (4) A medical professional licensed in accordance with Title 58, Chapter 31b, Nurse  
10111 Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah  
10112 Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act, who  
10113 is convicted of a violation of this section shall have their license permanently revoked by the  
10114 appropriate licensing board.

10115 Section 130. Section **77-18-1** is amended to read:

10116 **77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation --**  
10117 **Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and**  
10118 **conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic**  
10119 **monitoring.**

10120 (1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea  
10121 in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a,  
10122 Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

10123 (2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any  
10124 crime or offense, the court may, after imposing sentence, suspend the execution of the sentence  
10125 and place the defendant:

10126 (i) on probation under the supervision of the Department of Corrections except in cases  
10127 of class C misdemeanors or infractions;

10128 (ii) on probation under the supervision of an agency of local government or with a  
10129 private organization; or

10130 (iii) on court probation under the jurisdiction of the sentencing court.

10131 (b) (i) The legal custody of all probationers under the supervision of the department is  
10132 with the department.

10133 (ii) The legal custody of all probationers under the jurisdiction of the sentencing court  
10134 is vested as ordered by the court.

10135 (iii) The court has continuing jurisdiction over all probationers.

10136 (iv) Court probation may include an administrative level of services, including  
10137 notification to the court of scheduled periodic reviews of the probationer's compliance with

10138 conditions.

10139 (c) Supervised probation services provided by the department, an agency of local  
10140 government, or a private organization shall specifically address the offender's risk of  
10141 reoffending as identified by a validated risk and needs screening or assessment.

10142 (3) (a) The department shall establish supervision and presentence investigation  
10143 standards for all individuals referred to the department based on:

10144 (i) the type of offense;

10145 (ii) the results of a risk and needs assessment;

10146 (iii) the demand for services;

10147 (iv) the availability of agency resources;

10148 (v) public safety; and

10149 (vi) other criteria established by the department to determine what level of services  
10150 shall be provided.

10151 (b) Proposed supervision and investigation standards shall be submitted to the Judicial  
10152 Council and the Board of Pardons and Parole on an annual basis for review and comment prior  
10153 to adoption by the department.

10154 (c) The Judicial Council and the department shall establish procedures to implement  
10155 the supervision and investigation standards.

10156 (d) The Judicial Council and the department shall annually consider modifications to  
10157 the standards based upon criteria in Subsection (3)(a) and other criteria as they consider  
10158 appropriate.

10159 (e) The Judicial Council and the department shall annually prepare an impact report  
10160 and submit it to the appropriate legislative appropriations subcommittee.

10161 (4) Notwithstanding other provisions of law, the department is not required to  
10162 supervise the probation of an individual convicted of a class B or C misdemeanor or an  
10163 infraction or to conduct presentence investigation reports on a class C misdemeanor or  
10164 infraction. However, the department may supervise the probation of a class B misdemeanor in  
10165 accordance with department standards.

10166 (5) (a) Before the imposition of any sentence, the court may, with the concurrence of  
10167 the defendant, continue the date for the imposition of sentence for a reasonable period of time  
10168 for the purpose of obtaining a presentence investigation report from the department or  
10169 information from other sources about the defendant.

10170 (b) The presentence investigation report shall include:

10171 (i) a victim impact statement according to guidelines set in Section [77-38a-203](#)  
10172 describing the effect of the crime on the victim and the victim's family;

10173 (ii) a specific statement of pecuniary damages, accompanied by a recommendation  
10174 from the department regarding the payment of restitution with interest by the defendant in  
10175 accordance with Chapter 38a, Crime Victims Restitution Act;

10176 (iii) findings from any screening and any assessment of the offender conducted under  
10177 Section [77-18-1.1](#);

10178 (iv) recommendations for treatment of the offender; and

10179 (v) the number of days since the commission of the offense that the offender has spent  
10180 in the custody of the jail and the number of days, if any, the offender was released to a  
10181 supervised release or alternative incarceration program under Section [17-22-5.5](#).

10182 (c) The contents of the presentence investigation report are protected and are not  
10183 available except by court order for purposes of sentencing as provided by rule of the Judicial  
10184 Council or for use by the department.

10185 (6) (a) The department shall provide the presentence investigation report to the  
10186 defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the  
10187 court for review, three working days prior to sentencing. Any alleged inaccuracies in the  
10188 presentence investigation report, which have not been resolved by the parties and the  
10189 department prior to sentencing, shall be brought to the attention of the sentencing judge, and  
10190 the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the  
10191 report with the department. If after 10 working days the inaccuracies cannot be resolved, the  
10192 court shall make a determination of relevance and accuracy on the record.

10193 (b) If a party fails to challenge the accuracy of the presentence investigation report at

10194 the time of sentencing, that matter shall be considered to be waived.

10195 (7) At the time of sentence, the court shall receive any testimony, evidence, or  
10196 information the defendant or the prosecuting attorney desires to present concerning the  
10197 appropriate sentence. This testimony, evidence, or information shall be presented in open court  
10198 on record and in the presence of the defendant.

10199 (8) While on probation, and as a condition of probation, the court may require that a  
10200 defendant perform any or all of the following:

10201 (a) provide for the support of others for whose support the defendant is legally liable;

10202 (b) participate in available treatment programs, including any treatment program in  
10203 which the defendant is currently participating, if the program is acceptable to the court;

10204 (c) if on probation for a felony offense, serve a period of time, not to exceed one year,  
10205 in a county jail designated by the department, after considering any recommendation by the  
10206 court as to which jail the court finds most appropriate;

10207 (d) serve a term of home confinement, which may include the use of electronic  
10208 monitoring;

10209 (e) participate in compensatory service restitution programs, including the  
10210 compensatory service program provided in Section 76-6-107.1;

10211 (f) pay for the costs of investigation, probation, and treatment services;

10212 (g) make restitution or reparation to the victim or victims with interest in accordance  
10213 with Chapter 38a, Crime Victims Restitution Act; and

10214 (h) comply with other terms and conditions the court considers appropriate to ensure  
10215 public safety or increase a defendant's likelihood of success on probation.

10216 (9) The department shall collect and disburse the accounts receivable as defined by  
10217 Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

10218 (a) the parole period and any extension of that period in accordance with Subsection  
10219 77-27-6(4); and

10220 (b) the probation period in cases for which the court orders supervised probation and  
10221 any extension of that period by the department in accordance with Subsection (10).

10222 (10) (a) (i) Except as provided in Subsection (10)(a)(ii), probation of an individual  
10223 placed on probation after December 31, 2018:

10224 (A) may not exceed the individual's maximum sentence;

10225 (B) shall be for a period of time that is in accordance with the supervision length  
10226 guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the  
10227 extent the guidelines are consistent with the requirements of the law; and

10228 (C) shall be terminated in accordance with the supervision length guidelines  
10229 established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the  
10230 guidelines are consistent with the requirements of the law.

10231 (ii) Probation of an individual placed on probation after December 31, 2018, whose  
10232 maximum sentence is one year or less may not exceed 36 months.

10233 (iii) Probation of an individual placed on probation on or after October 1, 2015, but  
10234 before January 1, 2019, may be terminated at any time at the discretion of the court or upon  
10235 completion without violation of 36 months probation in felony or class A misdemeanor cases,  
10236 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to  
10237 Section 64-13-21 regarding earned credits.

10238 (b) (i) If, upon expiration or termination of the probation period under Subsection  
10239 (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section  
10240 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench  
10241 probation for the limited purpose of enforcing the payment of the account receivable. If the  
10242 court retains jurisdiction for this limited purpose, the court may order the defendant to pay to  
10243 the court the costs associated with continued probation under this Subsection (10).

10244 (ii) In accordance with Section 77-18-6, the court shall record in the registry of civil  
10245 judgments any unpaid balance not already recorded and immediately transfer responsibility to  
10246 collect the account to the Office of State Debt Collection.

10247 (iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its  
10248 own motion, the court may require the defendant to show cause why the defendant's failure to  
10249 pay should not be treated as contempt of court.

10250 (c) (i) The department shall notify the court, the Office of State Debt Collection, and  
10251 the prosecuting attorney in writing in advance in all cases when termination of supervised  
10252 probation is being requested by the department or will occur by law.

10253 (ii) The notification shall include a probation progress report and complete report of  
10254 details on outstanding accounts receivable.

10255 (11) (a) (i) Any time served by a probationer outside of confinement after having been  
10256 charged with a probation violation and prior to a hearing to revoke probation does not  
10257 constitute service of time toward the total probation term unless the probationer is exonerated  
10258 at a hearing to revoke the probation.

10259 (ii) Any time served in confinement awaiting a hearing or decision concerning  
10260 revocation of probation does not constitute service of time toward the total probation term  
10261 unless the probationer is exonerated at the hearing.

10262 (iii) Any time served in confinement awaiting a hearing or decision concerning  
10263 revocation of probation constitutes service of time toward a term of incarceration imposed as a  
10264 result of the revocation of probation or a graduated sanction imposed under Section  
10265 [63M-7-404](#).

10266 (b) The running of the probation period is tolled upon the filing of a violation report  
10267 with the court alleging a violation of the terms and conditions of probation or upon the issuance  
10268 of an order to show cause or warrant by the court.

10269 (12) (a) (i) Probation may be modified as is consistent with the supervision length  
10270 guidelines and the graduated sanctions and incentives developed by the Utah Sentencing  
10271 Commission under Section [63M-7-404](#).

10272 (ii) The length of probation may not be extended, except upon waiver of a hearing by  
10273 the probationer or upon a hearing and a finding in court that the probationer has violated the  
10274 conditions of probation.

10275 (iii) Probation may not be revoked except upon a hearing in court and a finding that the  
10276 conditions of probation have been violated.

10277 (b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in

10278 substantial compliance with [~~Section 78B-5-705~~] Title 78B, Chapter 18a, Uniform Unsworn  
10279 Declarations Act, alleging with particularity facts asserted to constitute violation of the  
10280 conditions of probation, the court shall determine if the affidavit or unsworn written declaration  
10281 establishes probable cause to believe that revocation, modification, or extension of probation is  
10282 justified.

10283 (ii) If the court determines there is probable cause, it shall cause to be served on the  
10284 defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written  
10285 declaration and an order to show cause why the defendant's probation should not be revoked,  
10286 modified, or extended.

10287 (c) (i) The order to show cause shall specify a time and place for the hearing and shall  
10288 be served upon the defendant at least five days prior to the hearing.

10289 (ii) The defendant shall show good cause for a continuance.

10290 (iii) The order to show cause shall inform the defendant of a right to be represented by  
10291 counsel at the hearing and to have counsel appointed if the defendant is indigent.

10292 (iv) The order shall also inform the defendant of a right to present evidence.

10293 (d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit  
10294 or unsworn written declaration.

10295 (ii) If the defendant denies the allegations of the affidavit or unsworn written  
10296 declaration, the prosecuting attorney shall present evidence on the allegations.

10297 (iii) The persons who have given adverse information on which the allegations are  
10298 based shall be presented as witnesses subject to questioning by the defendant unless the court  
10299 for good cause otherwise orders.

10300 (iv) The defendant may call witnesses, appear and speak in the defendant's own behalf,  
10301 and present evidence.

10302 (e) (i) After the hearing the court shall make findings of fact.

10303 (ii) Upon a finding that the defendant violated the conditions of probation, the court  
10304 may order the probation revoked, modified, continued, or reinstated for all or a portion of the  
10305 original term of probation.



10306 (iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a  
10307 defendant to remain on probation for a period of time that exceeds the length of the defendant's  
10308 maximum sentence.

10309 (B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked  
10310 and later reinstated, the total time of all periods of probation the defendant serves, relating to  
10311 the same sentence, may not exceed the defendant's maximum sentence.

10312 (iv) If a period of incarceration is imposed for a violation, the defendant shall be  
10313 sentenced within the guidelines established by the Utah Sentencing Commission pursuant to  
10314 Subsection 63M-7-404(4), unless the judge determines that:

10315 (A) the defendant needs substance abuse or mental health treatment, as determined by a  
10316 validated risk and needs screening and assessment, that warrants treatment services that are  
10317 immediately available in the community; or

10318 (B) the sentence previously imposed shall be executed.

10319 (v) If the defendant had, prior to the imposition of a term of incarceration or the  
10320 execution of the previously imposed sentence under this Subsection (12), served time in jail as  
10321 a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the  
10322 time the probationer served in jail constitutes service of time toward the sentence previously  
10323 imposed.

10324 (13) The court may order the defendant to commit the defendant to the custody of the  
10325 Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a  
10326 condition of probation or stay of sentence, only after the superintendent of the Utah State  
10327 Hospital or the superintendent's designee has certified to the court that:

10328 (a) the defendant is appropriate for and can benefit from treatment at the state hospital;

10329 (b) treatment space at the hospital is available for the defendant; and

10330 (c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for  
10331 treatment over the defendants described in this Subsection (13).

10332 (14) Presentence investigation reports are classified protected in accordance with Title  
10333 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections

10334 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a  
10335 presentence investigation report. Except for disclosure at the time of sentencing pursuant to  
10336 this section, the department may disclose the presentence investigation only when:

10337 (a) ordered by the court pursuant to Subsection 63G-2-202(7);  
10338 (b) requested by a law enforcement agency or other agency approved by the department  
10339 for purposes of supervision, confinement, and treatment of the offender;

10340 (c) requested by the Board of Pardons and Parole;

10341 (d) requested by the subject of the presentence investigation report or the subject's  
10342 authorized representative;

10343 (e) requested by the victim of the crime discussed in the presentence investigation  
10344 report or the victim's authorized representative, provided that the disclosure to the victim shall  
10345 include only information relating to statements or materials provided by the victim, to the  
10346 circumstances of the crime including statements by the defendant, or to the impact of the crime  
10347 on the victim or the victim's household; or

10348 (f) requested by a sex offender treatment provider who is certified to provide treatment  
10349 under the program established in Subsection 64-13-25(3) and who, at the time of the request:

10350 (i) is providing sex offender treatment to the offender who is the subject of the  
10351 presentence investigation report; and

10352 (ii) provides written assurance to the department that the report:

10353 (A) is necessary for the treatment of the offender;

10354 (B) will be used solely for the treatment of the offender; and

10355 (C) will not be disclosed to an individual or entity other than the offender.

10356 (15) (a) The court shall consider home confinement as a condition of probation under  
10357 the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

10358 (b) The department shall establish procedures and standards for home confinement,  
10359 including electronic monitoring, for all individuals referred to the department in accordance  
10360 with Subsection (16).

10361 (16) (a) If the court places the defendant on probation under this section, it may order

10362 the defendant to participate in home confinement through the use of electronic monitoring as  
10363 described in this section until further order of the court.

10364 (b) The electronic monitoring shall alert the department and the appropriate law  
10365 enforcement unit of the defendant's whereabouts.

10366 (c) The electronic monitoring device shall be used under conditions which require:

10367 (i) the defendant to wear an electronic monitoring device at all times; and

10368 (ii) that a device be placed in the home of the defendant, so that the defendant's  
10369 compliance with the court's order may be monitored.

10370 (d) If a court orders a defendant to participate in home confinement through electronic  
10371 monitoring as a condition of probation under this section, it shall:

10372 (i) place the defendant on probation under the supervision of the Department of  
10373 Corrections;

10374 (ii) order the department to place an electronic monitoring device on the defendant and  
10375 install electronic monitoring equipment in the residence of the defendant; and

10376 (iii) order the defendant to pay the costs associated with home confinement to the  
10377 department or the program provider.

10378 (e) The department shall pay the costs of home confinement through electronic  
10379 monitoring only for an individual who is determined to be indigent by the court.

10380 (f) The department may provide the electronic monitoring described in this section  
10381 either directly or by contract with a private provider.

10382 Section 131. Section **77-40-102 (Effective 05/01/20)** is amended to read:

10383 **77-40-102 (Effective 05/01/20). Definitions.**

10384 As used in this chapter:

10385 (1) "Administrative finding" means a decision upon a question of fact reached by an  
10386 administrative agency following an administrative hearing or other procedure satisfying the  
10387 requirements of due process.

10388 (2) "Agency" means a state, county, or local government entity that generates or  
10389 maintains records relating to an investigation, arrest, detention, or conviction for an offense for

10390 which expungement may be ordered.

10391 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public  
10392 Safety established in Section 53-10-201.

10393 (4) "Certificate of eligibility" means a document issued by the bureau stating that the  
10394 criminal record and all records of arrest, investigation, and detention associated with a case that  
10395 is the subject of a petition for expungement is eligible for expungement.

10396 (5) (a) "Clean slate eligible case" means a case:

10397 (i) where, except as provided in Subsection (5)(c), each conviction within the case is:

10398 (A) a misdemeanor conviction for possession of a controlled substance in violation of  
10399 Subsection 58-37-8(2)(a)(i);

10400 (B) a class B or class C misdemeanor conviction; or

10401 (C) an infraction conviction;

10402 (ii) that involves an individual:

10403 (A) whose total number of convictions in Utah state courts, not including infractions,  
10404 traffic offenses, or minor regulatory offenses, does not exceed the limits described in  
10405 Subsections 77-40-105(5) and (6) without taking into consideration the exception in Subsection  
10406 77-40-105(8); and

10407 (B) against whom no criminal proceedings are pending in the state; and

10408 (iii) for which the following time periods have elapsed from the day on which the case  
10409 is adjudicated:

10410 (A) at least five years for a class C misdemeanor or an infraction;

10411 (B) at least six years for a class B misdemeanor; and

10412 (C) at least seven years for a class A conviction for possession of a controlled  
10413 substance in violation of Subsection 58-37-8(2)(a)(i).

10414 (b) "Clean slate eligible case" includes a case that is dismissed as a result of a  
10415 successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b)  
10416 if:

10417 (i) except as provided in Subsection (5)(c), each charge within the case is:

- 10418 (A) a misdemeanor for possession of a controlled substance in violation of Subsection
- 10419 58-37-8(2)(a)(i);
- 10420 (B) a class B or class C misdemeanor; or
- 10421 (C) an infraction;
- 10422 (ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and
- 10423 (iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed
- 10424 from the day on which the case is dismissed.
- 10425 (c) "Clean slate eligible case" does not include a case:
- 10426 (i) where the individual is found not guilty by reason of insanity;
- 10427 (ii) where the case establishes a criminal judgment accounts receivable, as defined in
- 10428 Section 77-32a-101, that:
- 10429 (A) has been entered as a civil judgment and transferred to the Office of State Debt
- 10430 Collection; or
- 10431 (B) has not been satisfied according to court records; or
- 10432 (iii) that resulted in one or more pleas held in abeyance or convictions for the following
- 10433 offenses:
- 10434 (A) any of the offenses listed in Subsection 77-40-105(2)(a);
- 10435 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
- 10436 the Person;
- 10437 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
- 10438 (D) sexual battery in violation of Section 76-9-702.1;
- 10439 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 10440 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
- 10441 and Reckless Driving;
- 10442 (G) damage to or interruption of a communication device in violation of Section
- 10443 76-6-108;
- 10444 (H) a domestic violence offense as defined in Section 77-36-1; or
- 10445 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor

10446 other than a class A misdemeanor conviction for possession of a controlled substance in  
10447 violation of Subsection 58-37-8(2)(a)(i).

10448 (6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty  
10449 after trial, a plea of guilty, or a plea of nolo contendere.

10450 (7) "Department" means the Department of Public Safety established in Section  
10451 53-1-103.

10452 (8) "Drug possession offense" means an offense under:

10453 (a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i),  
10454 possession of 100 pounds or more of marijuana, any offense enhanced under Subsection  
10455 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a  
10456 controlled substance illegally in the person's body and negligently causing serious bodily injury  
10457 or death of another;

10458 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

10459 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or

10460 (d) any local ordinance which is substantially similar to any of the offenses described  
10461 in this Subsection (8).

10462 (9) "Expunge" means to seal or otherwise restrict access to the individual's record held  
10463 by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

10464 (10) "Jurisdiction" means a state, district, province, political subdivision, territory, or  
10465 possession of the United States or any foreign country.

10466 (11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any  
10467 local ordinance, except:

10468 (a) any drug possession offense;

10469 (b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

10470 (c) Sections 73-18-13 through 73-18-13.6;

10471 (d) those offenses defined in Title 76, Utah Criminal Code; or

10472 (e) any local ordinance that is substantially similar to those offenses listed in  
10473 Subsections (11)(a) through (d).

10474 (12) "Petitioner" means an individual applying for expungement under this chapter.

10475 (13) (a) "Traffic offense" means:

10476 (i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41,

10477 Chapter 6a, Traffic Code;

10478 (ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

10479 (iii) Title 73, Chapter 18, State Boating Act; and

10480 (iv) all local ordinances that are substantially similar to those offenses.

10481 (b) "Traffic offense" does not mean:

10482 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

10483 (ii) Sections 73-18-13 through 73-18-13.6; or

10484 (iii) any local ordinance that is substantially similar to the offenses listed in

10485 Subsections (13)(b)(i) and (ii).

10486 Section 132. Section 78A-6-115 is amended to read:

10487 **78A-6-115. Hearings -- Record -- County attorney or district attorney**

10488 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**

10489 **evidence -- Medical cannabis.**

10490 (1) (a) A verbatim record of the proceedings shall be taken in all cases that might result

10491 in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall

10492 also be made unless dispensed with by the court.

10493 (b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2,

10494 Government Records Access and Management Act, a record of a proceeding made under

10495 Subsection (1)(a) shall be released by the court to any person upon a finding on the record for

10496 good cause.

10497 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the

10498 court shall:

10499 (A) provide notice to all subjects of the record that a request for release of the record

10500 has been made; and

10501 (B) allow sufficient time for the subjects of the record to respond before making a

10502 finding on the petition.

10503 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the  
10504 court's jurisdiction over the subjects of the proceeding ended more than 12 months before the  
10505 request.

10506 (iv) For purposes of this Subsection (1)(b):

10507 (A) "record of a proceeding" does not include documentary materials of any type  
10508 submitted to the court as part of the proceeding, including items submitted under Subsection  
10509 (4)(a); and

10510 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal  
10511 guardian, the Division of Child and Family Services, and any other party to the proceeding.

10512 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a  
10513 prosecution district, the district attorney shall represent the state in any proceeding in a minor's  
10514 case.

10515 (b) Subject to the attorney general's prosecutorial discretion in civil enforcement  
10516 actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and  
10517 Family Services, and this chapter, relating to:

10518 (i) protection or custody of an abused, neglected, or dependent child; and

10519 (ii) petitions for termination of parental rights.

10520 (c) The attorney general shall represent the Division of Child and Family Services in  
10521 actions involving a minor who is not adjudicated as abused or neglected, but who is receiving  
10522 in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be  
10523 construed to affect the responsibility of the county attorney or district attorney to represent the  
10524 state in those matters, in accordance with Subsection (2)(a).

10525 (3) The board may adopt special rules of procedure to govern proceedings involving  
10526 violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings  
10527 involving offenses under Section 78A-6-606 are governed by that section regarding suspension  
10528 of driving privileges.

10529 (4) (a) For the purposes of determining proper disposition of the minor in dispositional



10530 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and  
10531 in hearings upon petitions for termination of parental rights, written reports and other material  
10532 relating to the minor's mental, physical, and social history and condition may be received in  
10533 evidence and may be considered by the court along with other evidence. The court may require  
10534 that the person who wrote the report or prepared the material appear as a witness if the person  
10535 is reasonably available.

10536 (b) For the purpose of determining proper disposition of a minor alleged to be or  
10537 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division  
10538 under Section 78A-6-315 may be received in evidence and may be considered by the court  
10539 along with other evidence. The court may require any person who participated in preparing the  
10540 dispositional report to appear as a witness, if the person is reasonably available.

10541 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the  
10542 commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under  
10543 Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or  
10544 their counsel any information which the party:

10545 (i) plans to report to the court at the proceeding; or

10546 (ii) could reasonably expect would be requested of the party by the court at the  
10547 proceeding.

10548 (b) The disclosure required under Subsection (5)(a) shall be made:

10549 (i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than  
10550 five days before the proceeding;

10551 (ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in  
10552 accordance with Utah Rules of Civil Procedure; and

10553 (iii) for all other proceedings, no less than five days before the proceeding.

10554 (c) If a party to a proceeding obtains information after the deadline in Subsection  
10555 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the  
10556 party certifies to the court that the information was obtained after the deadline.

10557 (d) Subsection (5)(a) does not apply to:

- 10558 (i) pretrial hearings; and
- 10559 (ii) the frequent, periodic review hearings held in a dependency drug court case to
- 10560 assess and promote the parent's progress in substance use disorder treatment.
- 10561 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court
- 10562 may, in its discretion, consider evidence of statements made by a child under eight years of age
- 10563 to a person in a trust relationship.
- 10564 (7) (a) As used in this Subsection (7):
- 10565 (i) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- 10566 (ii) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.
- 10567 (iii) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.
- 10568 (iv) "Medical cannabis cardholder" means the same as that term is defined in Section
- 10569 26-61a-102.
- 10570 (v) "Qualified medical provider" means the same as that term is defined in Section
- 10571 26-61a-102.
- 10572 (b) In any child welfare proceeding in which the court makes a finding, determination,
- 10573 or otherwise considers an individual's possession or use of medical cannabis, a cannabis
- 10574 product, or a medical cannabis device, the court may not consider or treat the individual's
- 10575 possession or use any differently than the lawful possession or use of any prescribed controlled
- 10576 substance if:
- 10577 (i) the individual's [~~use or~~] possession or use complies with[~~:(i)~~] Title 4, Chapter 41a,
- 10578 Cannabis Production Establishments;
- 10579 (ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or
- 10580 (iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah
- 10581 Medical Cannabis Act; and
- 10582 (B) the individual reasonably complies with the dosing parameters determined by the
- 10583 individual's qualified medical provider or through a consultation described in Subsection
- 10584 26-61a-502(4) or (5).
- 10585 (c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse

10586 or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child,  
10587 if:

10588 (i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or  
10589 guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act,  
10590 and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably  
10591 deviates from the dosing parameters determined by the parent's or guardian's qualified medical  
10592 provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

10593 (B) before January 1, 2021, the parent's or guardian's possession or use complies with  
10594 Subsection 58-37-3.7(2) or (3); and

10595 (ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise  
10596 had cannabis introduced to the child's body; or

10597 (B) there is no evidence showing a nexus between the parent's or guardian's use of  
10598 medical cannabis or a cannabis product and behavior that would separately constitute abuse or  
10599 neglect of the child.

10600 Section 133. Section 78B-6-133 is amended to read:

10601 **78B-6-133. Contested adoptions -- Rights of parties -- Determination of custody.**

10602 (1) If a person whose consent for an adoption is required pursuant to Subsection  
10603 78B-6-120(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether  
10604 proper grounds exist for the termination of that person's rights pursuant to the provisions of this  
10605 chapter or Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

10606 (2) (a) If there are proper grounds to terminate the person's parental rights, the court  
10607 shall order that the person's rights be terminated.

10608 (b) If there are not proper grounds to terminate the person's parental rights, the court  
10609 shall:

10610 (i) dismiss the adoption petition;

10611 (ii) conduct an evidentiary hearing to determine who should have custody of the child;

10612 and

10613 (iii) award custody of the child in accordance with the child's best interest.

10614 (c) Termination of a person's parental rights does not terminate the right of a relative of  
10615 the parent to seek adoption of the child.

10616 (3) Evidence considered at the custody hearing may include:

10617 (a) evidence of psychological or emotional bonds that the child has formed with a third  
10618 person, including the prospective adoptive parent; and

10619 (b) any detriment that a change in custody may cause the child.

10620 (4) If the court dismisses the adoption petition, the fact that a person relinquished a  
10621 child for adoption or consented to the adoption may not be considered as evidence in a custody  
10622 proceeding described in this section, or in any subsequent custody proceeding, that it is not in  
10623 the child's best interest for custody to be awarded to such person or that:

10624 (a) the person is unfit or incompetent to be a parent;

10625 (b) the person has neglected or abandoned the child;

10626 (c) the person is not interested in having custody of the child; or

10627 (d) the person has forfeited the person's parental presumption.

10628 (5) Any custody order entered pursuant to this section may also:

10629 (a) include provisions for:

10630 (i) parent-time; or

10631 (ii) visitation by an interested third party; and

10632 (b) provide for the financial support of the child.

10633 (6) (a) If a person or entity whose consent is required for an adoption under Subsection  
10634 [78B-6-120\(1\)\(a\)](#) or (g) refuses to consent, the court shall proceed with an evidentiary hearing  
10635 and award custody as set forth in Subsection (2).

10636 (b) The court may also finalize the adoption if doing so is in the best interest of the  
10637 child.

10638 (7) (a) A person may not contest an adoption after the final decree of adoption is  
10639 entered, if that person:

10640 (i) was a party to the adoption proceeding;

10641 (ii) was served with notice of the adoption proceeding; or

10642 (iii) executed a consent to the adoption or relinquishment for adoption.

10643 (b) No person may contest an adoption after one year from the day on which the final  
10644 decree of adoption is entered.

10645 (c) The limitations on contesting an adoption action, described in this Subsection (7),  
10646 apply to all attempts to contest an adoption:

10647 (i) regardless of whether the adoption is contested directly or collaterally; and  
10648 (ii) regardless of the basis for contesting the adoption, including claims of fraud,  
10649 duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of  
10650 jurisdiction.

10651 (d) The limitations on contesting an adoption action, described in this Subsection (7),  
10652 do not prohibit a timely appeal of:

10653 (i) a final decree of adoption; or  
10654 (ii) a decision in an action challenging an adoption, if the action was brought within the  
10655 time limitations described in Subsections (7)(a) and (b).

10656 (8) A court that has jurisdiction over a child for whom more than one petition for  
10657 adoption is filed shall grant a hearing only under the following circumstances:

10658 (a) to a petitioner:

10659 (i) with whom the child is placed;  
10660 (ii) who has custody or guardianship of the child;  
10661 (iii) who has filed a written statement with the court within 120 days after the day on  
10662 which the shelter hearing is held:

10663 (A) requesting immediate placement of the child with the petitioner; and  
10664 (B) expressing the petitioner's intention of adopting the child;

10665 (iv) who is a relative with whom the child has a significant and substantial relationship  
10666 and who was unaware, within the first 120 days after the day on which the shelter hearing is  
10667 held, of the child's removal from the child's parent; or

10668 (v) who is a relative with whom the child has a significant and substantial relationship  
10669 and, in a case where the child is not placed with a relative or is placed with a relative that is

10670 unable or unwilling to adopt the child:

10671 (A) was actively involved in the child's child welfare case with the division or the  
10672 juvenile court while the child's parent engaged in reunification services; and

10673 (B) filed a written statement with the court that includes the information described in  
10674 Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated  
10675 reunification services; or

10676 (b) if the child:

10677 (i) has been in the current placement for less than 180 days before the day on which the  
10678 petitioner files the petition for adoption; or

10679 (ii) is placed with, or is in the custody or guardianship of, an individual who previously  
10680 informed the division or the court that the individual is unwilling or unable to adopt the child.

10681 (9) (a) If the court grants a hearing on more than one petition for adoption, there is a  
10682 rebuttable presumption that it is in the best interest of a child to be placed for adoption with a  
10683 petitioner:

10684 (i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah  
10685 Adoption Act; and

10686 (ii) (A) with whom the child has continuously resided for six months;

10687 (B) who has filed a written statement with the court within 120 days after the day on  
10688 which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

10689 (C) who is a relative described in Subsection (8)(a)(iv).

10690 (b) The court may consider other factors relevant to the best interest of the child to  
10691 determine whether the presumption is rebutted.

10692 (c) The court shall weigh the best interest of the child uniformly between petitioners if  
10693 more than one petitioner satisfies a rebuttable presumption condition described in Subsection  
10694 (9)(a).

10695 (10) Nothing in this section shall be construed to prevent the division or the child's  
10696 guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

10697 (11) The division shall use best efforts to provide a known relative with timely

10698 information relating to the relative's rights or duties under this section.

10699 Section 134. **Repealer.**

10700 This bill repeals:

10701 Section **19-2-305, Limitation on applying for a tax credit.**