

1 REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE

2 2020 FIFTH SPECIAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Francis D. Gibson

5 Senate Sponsor: Evan J. Vickers

6

7 LONG TITLE

8 General Description:

9 This bill makes technical changes to provisions of the Utah Code.

10 Highlighted Provisions:

11 This bill:

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

15 Money Appropriated in this Bill:

16 None

17 Other Special Clauses:

18 This bill provides special effective dates.

19 Utah Code Sections Affected:

20 AMENDS:

21 10-9a-208, as last amended by Laws of Utah 2019, Chapter 384

22 13-43-206, as last amended by Laws of Utah 2020, Chapter 313

23 17B-2a-804, as last amended by Laws of Utah 2020, Chapter 377

24 17D-3-304, as last amended by Laws of Utah 2020, Chapter 311

25 19-3-103.1, as enacted by Laws of Utah 2020, Chapter 256

26 19-5-108.5 (Effective 07/01/20), as enacted by Laws of Utah 2020, Chapter 99

27 26-7-14, as enacted by Laws of Utah 2020, Chapter 221



- 28 **26-15b-102**, as enacted by Laws of Utah 2020, Chapter 189
- 29 **26-15b-105**, as enacted by Laws of Utah 2020, Chapter 189
- 30 **26-18-3.8**, as last amended by Laws of Utah 2020, Chapter 225
- 31 **26-18-3.9**, as last amended by Laws of Utah 2020, Chapter 225
- 32 **26-18-408**, as last amended by Laws of Utah 2020, Chapter 225
- 33 **26-21-34**, as enacted by Laws of Utah 2020, Chapter 251
- 34 **26-67-102**, as enacted by Laws of Utah 2020, Chapter 169
- 35 **26-67-204**, as enacted by Laws of Utah 2020, Chapter 169
- 36 **31A-22-626.5**, as enacted by Laws of Utah 2020, Chapter 310
- 37 **32B-1-102**, as last amended by Laws of Utah 2020, Chapter 219
- 38 **41-6a-904**, as last amended by Laws of Utah 2020, Chapter 74
- 39 **54-3-8**, as last amended by Laws of Utah 2019, Chapter 460
- 40 **58-4a-107**, as enacted by Laws of Utah 2020, Chapter 107
- 41 **58-17b-1004 (Effective 07/01/20)**, as enacted by Laws of Utah 2020, Chapter 372
- 42 **58-17b-1005 (Effective 07/01/20)**, as enacted by Laws of Utah 2020, Chapter 372
- 43 **58-31b-502**, as last amended by Laws of Utah 2020, Chapter 25
- 44 **58-55-503**, as last amended by Laws of Utah 2020, Chapters 339 and 380
- 45 **58-60-405**, as last amended by Laws of Utah 2020, Chapters 252 and 339
- 46 **59-2-1101 (Effective 01/01/21)**, as last amended by Laws of Utah 2020, Chapters 38
- 47 and 305
- 48 **63G-2-302**, as last amended by Laws of Utah 2020, Chapters 213 and 255
- 49 **63G-7-701**, as last amended by Laws of Utah 2013, Chapter 278
- 50 **63I-2-215**, as enacted by Laws of Utah 2019, Chapter 119
- 51 **63J-1-602.1 (Effective 10/15/20)**, as last amended by Laws of Utah 2020, Chapters
- 52 126, 186, 230, 322, 375, and 405
- 53 **63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20)**, as last amended by Laws of Utah
- 54 2020, Chapters 126, 186, 230, 322, 375, and 405
- 55 **72-10-205.5**, as enacted by Laws of Utah 2020, Chapter 243
- 56 **73-10g-202**, as last amended by Laws of Utah 2020, Chapter 33
- 57 **73-31-202**, as enacted by Laws of Utah 2020, Chapter 342
- 58 **76-7-305**, as last amended by Laws of Utah 2020, Chapter 251

59 **78A-6-602**, as last amended by Laws of Utah 2020, Chapters 214, 312 and last
60 amended by Coordination Clause, Laws of Utah 2020, Chapter 214

61 **78A-6-602.5**, as enacted by Laws of Utah 2020, Chapter 312 and last amended by
62 Coordination Clause, Laws of Utah 2020, Chapter 214

63 **78B-7-118 (Effective 07/01/20)**, as enacted by Laws of Utah 2020, Chapter 142



64
65 *Be it enacted by the Legislature of the state of Utah:*

66 Section 1. Section **10-9a-208** is amended to read:

67 **10-9a-208. Hearing and notice for petition to vacate a public street.**

68 (1) For any petition to vacate some or all of a public street or [~~municipality~~] municipal
69 utility easement the legislative body shall:

- 70 (a) hold a public hearing; and
- 71 (b) give notice of the date, place, and time of the hearing, as provided in Subsection
- 72 (2).

73 (2) At least 10 days before the public hearing under Subsection (1)(a), the legislative
74 body shall ensure that the notice required under Subsection (1)(b) is:

- 75 (a) mailed to the record owner of each parcel that is accessed by the public street or
- 76 municipal utility easement;
- 77 (b) mailed to each affected entity;
- 78 (c) posted on or near the public street or municipal utility easement in a manner that is
- 79 calculated to alert the public; and
- 80 (d) (i) published on the website of the municipality in which the land subject to the
- 81 petition is located until the public hearing concludes; and
- 82 (ii) published on the Utah Public Notice Website created in Section **63F-1-701**.

83 Section 2. Section **13-43-206** is amended to read:

84 **13-43-206. Advisory opinion -- Process.**

- 85 (1) A request for an advisory opinion under Section **13-43-205** shall be:
- 86 (a) filed with the Office of the Property Rights Ombudsman; and
- 87 (b) accompanied by a filing fee of \$150.
- 88 (2) The Office of the Property Rights Ombudsman may establish policies providing for
- 89 partial fee waivers for a person who is financially unable to pay the entire fee.

90 (3) A person requesting an advisory opinion need not exhaust administrative remedies,
91 including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an
92 advisory opinion.

93 (4) The Office of the Property Rights Ombudsman shall:

94 (a) deliver notice of the request to opposing parties indicated in the request;

95 (b) inquire of all parties if there are other necessary parties to the dispute; and

96 (c) deliver notice to all necessary parties.

97 (5) If a governmental entity is an opposing party, the Office of the Property Rights
98 Ombudsman shall deliver the request in the manner provided for in Section 63G-7-401.

99 (6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the
100 parties can agree to a neutral third party to issue an advisory opinion.

101 (b) If no agreement can be reached within four business days after notice is delivered
102 pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall
103 appoint a neutral third party to issue an advisory opinion.

104 (7) All parties that are the subject of the request for advisory opinion shall:

105 (a) share equally in the cost of the advisory opinion; and

106 (b) provide financial assurance for payment that the neutral third party requires.

107 (8) The neutral third party shall comply with the provisions of Section 78B-11-109,
108 and shall promptly:

109 (a) seek a response from all necessary parties to the issues raised in the request for
110 advisory opinion;

111 (b) investigate and consider all responses; and

112 (c) issue a written advisory opinion within 15 business days after the appointment of
113 the neutral third party under Subsection (6)(b), unless:

114 (i) the parties agree to extend the deadline; or

115 (ii) the neutral third party determines that the matter is complex and requires additional
116 time to render an opinion, which may not exceed 30 calendar days.

117 (9) An advisory opinion shall include a statement of the facts and law supporting the
118 opinion's conclusions.

119 (10) (a) Copies of any advisory opinion issued by the Office of the Property Rights
120 Ombudsman shall be delivered as soon as practicable to all necessary parties.

121 (b) A copy of the advisory opinion shall be delivered to the government entity in the
122 manner provided for in Section 63G-7-401.

123 (11) An advisory opinion issued by the Office of the Property Rights Ombudsman is
124 not binding on any party to, nor admissible as evidence in, a dispute involving land use law
125 except as provided in Subsection (12).

126 (12) Subject to Subsection [(14)] (13), if a dispute involving land use law results in the
127 issuance of an advisory opinion described in this section, if the same issue that is the subject of
128 the advisory opinion is subsequently litigated on the same facts and circumstances at issue in
129 the advisory opinion, and if the relevant issue is resolved consistent with the advisory opinion,
130 the substantially prevailing party on that cause of action may collect:

131 (a) reasonable attorney fees and court costs pertaining to the development of that cause
132 of action from the date of the delivery of the advisory opinion to the date of the court's
133 resolution; and

134 (b) subject to Subsection (13), if the court finds that the opposing party knowingly and
135 intentionally violated the law governing that cause of action, a civil penalty of \$250 per day:

136 (i) beginning on the later of:

137 (A) 30 days after the day on which the advisory opinion was delivered; or

138 (B) the day on which the action was filed; and

139 (ii) ending the day on which the court enters a final judgment.

140 (13) (a) Subsection (12) does not apply unless the resolution described in Subsection
141 (12) is final.

142 (b) A court may not impose a civil penalty under Subsection (12)(b) against or in favor
143 of a party other than the land use applicant or a government entity.

144 (14) In addition to any amounts awarded under Subsection (12), if the dispute
145 described in Subsection (12) in whole or in part concerns an impact fee, and if the result of the
146 litigation requires that the political subdivision or private entity refund the impact fee in
147 accordance with Section 11-36a-603, the political subdivision or private entity shall refund the
148 impact fee in an amount that is based on the difference between the impact fee paid and what
149 the impact fee should have been if the political subdivision or private entity had correctly
150 calculated the impact fee.

151 (15) Nothing in this section is intended to create any new cause of action under land

152 use law.

153 (16) Unless filed by the local government, a request for an advisory opinion under
154 Section 13-43-205 does not stay the progress of a land use application, the effect of a land use
155 decision, or the condemning entity's occupancy of a property.

156 Section 3. Section 17B-2a-804 is amended to read:

157 **17B-2a-804. Additional public transit district powers.**

158 (1) In addition to the powers conferred on a public transit district under Section
159 17B-1-103, a public transit district may:

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

162 (b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817,
163 levy and collect property taxes only for the purpose of paying:

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

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

166 (A) the amount of the judgment exceeds the amount of any collectable insurance or
167 indemnity policy; and

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

169 (c) insure against:

170 (i) loss of revenues from damage to or destruction of some or all of a public transit
171 system from any cause;

172 (ii) public liability;

173 (iii) property damage; or

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

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

176 (i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal,
177 parking lot, or any other facility necessary or convenient for public transit service; or

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

179 (e) (i) hire, lease, or contract for the supplying or management of a facility, operation,
180 equipment, service, employee, or management staff of an operator; and

181 (ii) provide for a sublease or subcontract by the operator upon terms that are in the
182 public interest;

- 183 (f) operate feeder bus lines and other feeder or ridesharing services as necessary;
- 184 (g) accept a grant, contribution, or loan, directly through the sale of securities or
185 equipment trust certificates or otherwise, from the United States, or from a department,
186 instrumentality, or agency of the United States;
- 187 (h) study and plan transit facilities in accordance with any legislation passed by
188 Congress;
- 189 (i) cooperate with and enter into an agreement with the state or an agency of the state
190 or otherwise contract to finance to establish transit facilities and equipment or to study or plan
191 transit facilities;
- 192 (j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to
193 Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;
- 194 (k) from bond proceeds or any other available funds, reimburse the state or an agency
195 of the state for an advance or contribution from the state or state agency;
- 196 (l) do anything necessary to avail itself of any aid, assistance, or cooperation available
197 under federal law, including complying with labor standards and making arrangements for
198 employees required by the United States or a department, instrumentality, or agency of the
199 United States;
- 200 (m) sell or lease property;
- 201 (n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or
202 transit-supportive developments;
- 203 (o) establish, finance, participate as a limited partner or member in a development with
204 limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or
205 operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented
206 developments or transit-supportive developments; and
- 207 (p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a
208 transit-oriented development or a transit-supportive development in connection with project
209 area development as defined in Section 17C-1-102 by:
- 210 (i) investing in a project as a limited partner or a member, with limited liabilities; or
211 (ii) subordinating an ownership interest in real property owned by the public transit
212 district.
- 213 (2) (a) A public transit district may only assist in the development of areas under

214 Subsection (1)(p) that have been approved by the board of trustees, and in the manners
215 described in Subsection (1)(p).

216 (b) A public transit district may not invest in a transit-oriented development or
217 transit-supportive development as a limited partner or other limited liability entity under the
218 provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity,
219 makes an equity contribution equal to no less than 25% of the appraised value of the property
220 to be contributed by the public transit district.

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

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

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

232 (3) For any transit-oriented development or transit-supportive development authorized
233 in this section, the public transit district shall:

234 (a) perform a cost-benefit analysis of the monetary investment and expenditures of the
235 development, including effect on:

- 236 (i) service and ridership;
- 237 (ii) regional plans made by the metropolitan planning agency;
- 238 (iii) the local economy;
- 239 (iv) the environment and air quality;
- 240 (v) affordable housing; and
- 241 (vi) integration with other modes of transportation; and

242 (b) provide evidence to the public of a quantifiable positive return on investment,
243 including improvements to public transit service.

244 (4) A public transit district may not participate in a transit-oriented development if:

245 (a) the relevant municipality or county has not developed and adopted a station area
246 plan; and

247 (b) (i) for a transit-oriented development involving a municipality, the municipality is
248 not in compliance with Sections 10-9a-403 and 10-9a-408 regarding the inclusion of moderate
249 income housing in the general plan and the required reporting requirements; or

250 (ii) for a transit-oriented development involving property in an unincorporated area of a
251 county, the county is not in compliance with Sections 17-27a-403 and 17-27a-408 regarding
252 inclusion of moderate income housing in the general plan and required reporting requirements.

253 (5) A public transit district may be funded from any combination of federal, state,
254 local, or private funds.

255 (6) A public transit district may not acquire property by eminent domain.

256 Section 4. Section 17D-3-304 is amended to read:

257 **17D-3-304. Petition to nominate candidates for appointment to the board of**
258 **supervisors.**

259 (1) In addition to the procedure in Section 17D-3-302, a person may be nominated to be
260 a candidate for appointment as a member of a board of supervisors of a conservation district by
261 a petition filed with the department no later than the date set by the commission as the close of
262 nominations.

263 (2) A petition under Subsection (1) shall:

264 (a) state:

265 ~~(a)~~ (i) the candidate's name;

266 ~~(b)~~ (ii) that the candidate is at least 18 years ~~[of age;]~~ old; and

267 ~~(c)~~ (iii) that the candidate for appointment is a resident of the conservation district for
268 which the nomination for candidacy is to be held; and

269 ~~(d)~~ (b) contain the notarized signature of the candidate.

270 (3) The department shall forward a petition received under this section to the
271 nominating committee for consideration under Sections 17D-3-302 and 17D-3-303.

272 Section 5. Section 19-3-103.1 is amended to read:

273 **19-3-103.1. Board authority and duties under this part.**

274 (1) The board may:

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

276 Rulemaking Act, that are necessary to implement this part;

277 (b) (i) hold a hearing that is not an adjudicative proceeding; or

278 (ii) appoint a hearing officer to conduct a hearing that is not an adjudicative
279 proceeding;

280 (c) accept, receive, and administer grants or other money or gifts from public and
281 private agencies, including the federal government, for the purpose of carrying out any function
282 of this chapter;

283 (d) order the director to impound radioactive material in accordance with Section
284 19-3-111; or

285 (e) advise, consult, cooperate with, or provide technical assistance to another agency of
286 the state or federal government, another state, an interstate agency, an affected group, an
287 affected political subdivision, an affected industry, or other person in carrying out the purposes
288 of this part.

289 (2) The board shall:

290 (a) promote the planning and application of pollution prevention and radioactive waste
291 minimization measures to prevent the unnecessary waste and depletion of natural resources;

292 (b) to ensure compliance with applicable statutes and rules:

293 (i) review a settlement negotiated by the director in accordance with Subsection
294 19-3-108.1(2)(c) that requires a civil penalty equal to or greater than \$25,000; and

295 (ii) approve or disapprove the settlement described in Subsection (2)(b)(i); and

296 (c) review the qualifications of, and issue certificates of approval to, individuals who:

297 (i) survey mammography equipment; or

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

299 (3) The board may not issue, amend, renew, modify, revoke, or terminate any of the
300 following that are subject to the authority granted to the director under Section 19-3-108.1:

301 (a) a permit;

302 (b) a license;

303 (c) a registration;

304 (d) a certification; or

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

306 Section 6. Section 19-5-108.5 (Effective 07/01/20) is amended to read:

307 **19-5-108.5 (Effective 07/01/20). Storm water permits.**

308 (1) As used in this section:

309 (a) "Applicant" means a person who is conducting or proposing to conduct a use of
310 land and who a permittee requires or allows to use low impact development.

311 (b) "Independent review" is a review conducted:

312 (i) in accordance with this section; and

313 (ii) by an engineer, or engineering firm, designated by the division as having technical
314 expertise in the area of storm water calculations.

315 (c) "Low impact development" means structural or natural engineered systems located
316 close to the source of storm water that use or mimic natural processes to encourage infiltration,
317 evapotranspiration, or reuse of the storm water.

318 (d) "Permittee" means a municipality, metro township, or county with a storm water
319 permit under the Utah Pollutant Discharge Elimination System.

320 (e) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and
321 drainage.

322 (f) "Storm water permit" means a permit issued to a permittee by the division for the
323 permittee's municipal separate storm sewer system.

324 (g) "Utah Pollutant Discharge Elimination System" means the state-wide program for
325 issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits
326 under ~~[the Utah Water Quality Act]~~ this chapter.

327 (2) A permittee shall reduce any requirement for an applicant to manage or control
328 storm water runoff rates or storm water runoff volumes for flood control purposes to account
329 for the reduction in storm water associated with approved low impact development practices.

330 (3) The director shall create and maintain a list of engineers, including engineering
331 firms, capable of providing independent review of low impact development designs and storm
332 water calculations for use by an applicant and a permittee pursuant to an appeal described in
333 Subsection (4).

334 (4) (a) An applicant who appeals a permittee's determination regarding
335 post-construction retention requirements under the permittee's storm water permit may request
336 the permittee to refer the appeal to independent review for purposes of determining the
337 technical aspects of the appeal, including:

- 338 (i) the required size of any low impact development system;
- 339 (ii) the calculations of reductions in storm water runoff rates or storm water runoff
- 340 volumes for flood control due to the use of low impact development; and
- 341 (iii) the feasibility of constructing low impact development practices required by the
- 342 permittee.

343 (b) If an applicant makes a request under Subsection (4)(a):

344 (i) the permittee shall:

345 (A) select an engineer or engineering firm from the list described in Subsection (3);

346 and

347 (B) pay one-half of the cost of the independent review.

348 (ii) An engineer or engineering firm selected by the permittee under Subsection

349 (4)(b)(i) may not be:

350 (A) associated with the application that is the subject of the appeal; or

351 (B) employed by the permittee.

352 (iii) The applicant shall pay:

353 (A) one-half of the cost of the independent review; and

354 (B) the municipality's published appeal fee.

355 Section 7. Section **26-7-14** is amended to read:

356 **26-7-14. Study on violent incidents and fatalities involving substance abuse --**
357 **Report.**

358 (1) As used in this section:

359 (a) "Drug overdose event" means an acute condition, including a decreased level of
360 consciousness or respiratory depression resulting from the consumption or use of a controlled
361 substance, or another substance with which a controlled substance or alcohol was combined,
362 that results in an individual requiring medical assistance.

363 (b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
364 substances.

365 (c) "Violent incident" means:

366 (i) aggravated assault as described in Section [76-5-103](#);

367 (ii) child abuse as described in Section [76-5-109](#);

368 (iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

- 369 (iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 370 (v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;
- 371 (vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;
- 372 (vii) a domestic violence offense, as defined in Section 77-36-1; and
- 373 (viii) any other violent offense, as determined by the department.

374 (2) In 2021 and continuing every other year, the department shall provide a report
375 before October 1 to the Health and Human Services Interim Committee regarding the number
376 of:

- 377 (a) violent incidents and fatalities that occurred in the state during the preceding
378 calendar year that, at the time of occurrence, involved substance abuse;
- 379 (b) drug overdose events in the state during the preceding calendar year; and
- 380 (c) recommendations for legislation, if any, to prevent the occurrence of the events
381 described in Subsections (2)(a) and (b).

382 (3) Before October 1, 2020, the department shall:

- 383 (a) determine what information is necessary to complete the report described in
384 Subsection (2) and from which local, state, and federal agencies the information may be
385 obtained;
- 386 (b) determine the cost of any research or data collection that is necessary to complete
387 the report described in Subsection (2);
- 388 (c) make recommendations for legislation, if any, that is necessary to facilitate the
389 research or data collection described in Subsection (3)(b), including recommendations for
390 legislation to assist with information sharing between local, state, federal, and private entities
391 and the ~~[division]~~ department; and
- 392 (d) report the findings described in Subsections (3)(a) through (c) to the Health and
393 Human Services Interim Committee.

394 (4) The department may contract with another state agency, private entity, or research
395 institution to assist the ~~[division]~~ department with the report described in Subsection (2).

396 Section 8. Section 26-15b-102 is amended to read:

397 **26-15b-102. Definitions.**

398 As used in this chapter:

- 399 (1) "Agricultural tourism activity" means the same as that term is defined in Section

400 78B-4-512.

401 (2) "Agritourism" means the same as that term is defined in Section 78B-4-512.

402 (3) "Agritourism food establishment" means a non-commercial kitchen facility where
403 food is handled, stored, or prepared to be offered for sale on a farm in connection with an
404 agricultural tourism activity.

405 (4) "Agritourism food establishment permit" means a permit issued by a local health
406 department to the operator for the ~~[purposes]~~ purpose of operating an agritourism food
407 establishment.

408 (5) "Farm" means a working farm, ranch, or other commercial agricultural,
409 aquacultural, horticultural, or forestry operation.

410 (6) "Food" means:

411 (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or
412 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

413 (b) chewing gum.

414 (7) "Local health department" means the same as that term is defined in Section
415 26A-1-102.

416 (8) "Operator" means a person who owns, manages, or controls, or who has the duty to
417 manage or control, the farm.

418 (9) "Time/temperature control food" means food that requires time/temperature
419 controls for safety to limit pathogenic microorganism growth or toxin formation.

420 Section 9. Section 26-15b-105 is amended to read:

421 **26-15b-105. Permit requirements -- Inspections.**

422 (1) A farm may qualify for an agritourism food establishment permit if:

423 (a) poultry products that are served at the agritourism food establishment are
424 slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C.
425 Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

426 (b) meat not described in Subsection (1)(a) that is served at the agritourism food
427 establishment is slaughtered and processed in compliance with the Federal Meat Inspection
428 Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

429 (c) a kitchen facility used to prepare food for the agritourism food establishment meets
430 the requirements established by the department;

- 431 (d) the farm operates the agritourism food establishment for no more than 14
- 432 consecutive days at a time; and
- 433 (e) the farm complies with the requirements of this section.
- 434 (2) The department shall, in accordance with Title 63G, Chapter 3, Utah
- 435 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance
- 436 requirements for agritourism food establishments.
- 437 (3) A local health department shall:
- 438 (a) ensure compliance with the rules described in Subsection (2) when inspecting a
- 439 kitchen facility;
- 440 (b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that
- 441 requests an agritourism food establishment permit only:
- 442 (i) for an initial inspection, no more than one week before the agritourism food
- 443 establishment is scheduled to begin operation;
- 444 (ii) for an unscheduled inspection:
- 445 (A) of an event scheduled to last no more than three days if the local health department
- 446 conducts the inspection within three days before or after the day on which the agritourism food
- 447 establishment is scheduled to begin operation; or
- 448 (B) of an event scheduled to last longer than three days if the local health department
- 449 conducts the inspection within three days before or after the day on which the agritourism food
- 450 establishment is scheduled to begin operation, or conducts the inspection during operating
- 451 hours of the agritourism food establishment; or
- 452 (iii) for subsequent inspections if:
- 453 (A) the local health department provides the operator with reasonable advanced notice
- 454 about an inspection; or
- 455 (B) the local health department has a valid reason to suspect that the agritourism food
- 456 establishment is the source of an adulterated food or of an outbreak of illness caused by a
- 457 contaminated food; and
- 458 (c) document the reason for any inspection after the permitting inspection, keep a copy
- 459 of that documentation on file with the agritourism food establishment's permit, and provide a
- 460 copy of that documentation to the operator.
- 461 (4) An agritourism food establishment shall:

- 462 (a) take steps to avoid any potential contamination to:
- 463 (i) food;
- 464 (ii) equipment;
- 465 (iii) utensils; or
- 466 (iv) unwrapped single-service and single-use articles; and
- 467 (b) prevent an individual from entering the food preparation area while food is being
- 468 prepared if the individual is known to be suffering from:
- 469 (i) symptoms associated with acute gastrointestinal illness; or
- 470 (ii) a communicable disease that is transmissible through food.
- 471 (5) When making the rules described in Subsection (2), the department may not make
- 472 rules regarding:
- 473 (a) hand washing facilities, except to require that a hand washing station supplied with
- 474 warm water, soap, and disposable hand towels is conveniently located;
- 475 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that
- 476 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes
- 477 are sanitized between each use;
- 478 (c) the individuals allowed access to the food preparation areas, food storage, and
- 479 washing areas, except during food preparation;
- 480 (d) display guards, covers, or containers for display foods, except to require that any
- 481 food on display that is not protected from the direct line of a consumer's mouth by an effective
- 482 means is not served or sold to any subsequent consumer;
- 483 (e) outdoor display and sale of food, except to require that food is maintained at proper
- 484 holding temperatures;
- 485 (f) reuse by an individual of drinking cups and tableware for multiple portions;
- 486 (g) utensils and equipment, except to require that utensils and equipment used in the
- 487 home kitchen:
- 488 (i) retain their characteristic qualities under normal use conditions;
- 489 (ii) are properly sanitized after use; and
- 490 (iii) are maintained in a sanitary manner between uses;
- 491 (h) food contact surfaces, except to require that food contact surfaces are smooth,
- 492 easily cleanable, in good repair, and properly sanitized between tasks;

493 (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in
494 residential settings, except to require that those surfaces are kept clean from the accumulation
495 of residue and debris;

496 (j) clean-in-place equipment, except to require that the equipment is cleaned and
497 sanitized between uses;

498 (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and
499 smoke are able to escape the kitchen;

500 (l) fixed temperature measuring devices or product mimicking sensors for the holding
501 equipment for time/temperature control food, except to require non-fixed temperature
502 measuring devices for hot and cold holding of food during storage, serving, and cooling;

503 (m) fixed floor-mounted and table-mounted equipment except to require that
504 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

505 (n) dedicated laundry facilities, except to require that linens used for the agritourism
506 food establishment are stored and laundered separately from household laundry and that soiled
507 laundry is stored to prevent contamination of food and equipment;

508 (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with
509 hot water;

510 (p) the number of and path of access to toilet facilities, except to require that toilet
511 facilities are equipped with proper handwashing stations;

512 (q) lighting, except to require that food [~~preparations~~] preparation areas are well lit by
513 natural or artificial light whenever food is being prepared;

514 (r) designated dressing areas and storage facilities, except to require that items not
515 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that
516 dressing takes place outside of the kitchen facility, and that food items are stored in a manner
517 that does not allow for contamination;

518 (s) the presence and handling of animals, except to require that all animals are kept
519 outside of food preparation and service areas during food service and food preparation;

520 (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces
521 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

522 (u) kitchen facilities open to living areas, except to require that food is only prepared,
523 handled, or stored in kitchen and food storage areas;

524 (v) submission of plans and specifications before construction or remodel of a kitchen
525 facility;

526 (w) the number and type of time/temperature controlled food offered for sale;

527 (x) approved food sources, except those required by 9 C.F.R. 303.1;

528 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

529 (z) food safety certification, except any individual who is involved in the preparation,
530 storage, or service of food in the agritourism food establishment shall hold a food handler
531 permit as defined in Section 26-15-5.

532 (6) An operator applying for an agritourism food establishment permit shall provide to
533 the local health department:

534 (a) written consent to enter the premises where food is prepared, cooked, stored, or
535 harvested for the agritourism food establishment; and

536 (b) written standard operating procedures that include:

537 (i) all food that will be stored, handled, and prepared;

538 (ii) the proposed procedures and methods of food preparation and handling;

539 (iii) procedures, methods, and schedules for cleaning utensils and equipment;

540 (iv) procedures and methods for the disposal of refuse; and

541 (v) a plan for maintaining time/temperature controlled food at the appropriate
542 temperatures for each time/temperature controlled food.

543 (7) In addition to a fee charged under Section 26-15b-103, if the local health
544 department is required to inspect the farm as a source of an adulterated food or an outbreak of
545 illness caused by a contaminated food and finds, as a result of that inspection, that the farm has
546 produced an adulterated food or was the source of an outbreak of illness caused by a
547 contaminated food, the local health department may charge and collect from the farm a fee for
548 that inspection.

549 (8) An agritourism food establishment permit:

550 (a) is nontransferable;

551 (b) is renewable on an annual basis;

552 (c) is restricted to the location listed on the permit; and

553 (d) shall provide the operator the opportunity to update the food types and products
554 handled without requiring the operator to renew the permit.

555 (9) This section does not prohibit an operator from applying for a different type of food
556 event permit from a local health department.

557 Section 10. Section **26-18-3.8** is amended to read:

558 **26-18-3.8. Maximizing use of premium assistance programs -- Utah's Premium**
559 **Partnership for Health Insurance.**

560 (1) (a) The department shall seek to maximize the use of Medicaid and Children's
561 Health Insurance Program funds for assistance in the purchase of private health insurance
562 coverage for Medicaid-eligible and non-Medicaid-eligible individuals.

563 (b) The department's efforts to expand the use of premium assistance shall:

564 (i) include, as necessary, seeking federal approval under all Medicaid and Children's
565 Health Insurance Program premium assistance provisions of federal law, including provisions
566 of the Patient Protection and Affordable Care Act, Public Law 111-148;

567 (ii) give priority to, but not be limited to, expanding the state's Utah Premium
568 Partnership for Health Insurance Program, including as required under Subsection (2); and

569 (iii) encourage the enrollment of all individuals within a household in the same plan,
570 where possible, including enrollment in a plan that allows individuals within the household
571 transitioning out of Medicaid to retain the same network and benefits they had while enrolled
572 in Medicaid.

573 (2) The department shall seek federal approval of an amendment to the state's Utah
574 Premium Partnership for Health Insurance program to adjust the eligibility determination for
575 single adults and parents who have an offer of employer sponsored insurance. The amendment
576 shall:

577 (a) be within existing appropriations for the Utah Premium Partnership for Health
578 Insurance program; and

579 (b) provide that adults who are up to 200% of the federal poverty level are eligible for
580 premium subsidies in the Utah Premium Partnership for Health Insurance program.

581 (3) For fiscal year [~~2021-22~~] 2020-21, the department shall seek authority to increase
582 the maximum premium subsidy per month for adults under the Utah Premium Partnership for
583 Health Insurance program to \$300.

584 (4) Beginning with fiscal year 2021-22, and in each subsequent year, the department
585 may increase premium subsidies for single adults and parents who have an offer of

586 employer-sponsored insurance to keep pace with the increase in insurance premium costs
587 subject to appropriation of additional funding.

588 Section 11. Section **26-18-3.9** is amended to read:

589 **26-18-3.9. Expanding the Medicaid program.**

590 (1) As used in this section:

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

593 (b) "Federal poverty level" means the same as that term is defined in Section
594 [26-18-411](#).

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

597 (d) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in
598 Section [26-36b-208](#).

599 (2) (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid
600 program shall be expanded to cover additional low-income individuals.

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

603 (c) The department may implement any provision described in Subsections
604 [26-18-415\(2\)\(b\)\(iii\)](#) through (viii) in a Medicaid expansion if the department receives approval
605 from CMS to implement that provision.

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

608 (a) receives approval from CMS to:

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

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

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

616 (b) pays the state portion of costs for the Medicaid expansion under this Subsection (3)

617 with funds from:

618 (i) the Medicaid Expansion Fund;

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

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

621 expenditures; and

622 (c) closes the Medicaid program to new enrollment under the Medicaid expansion
623 under this Subsection (3) if the department projects that the cost of the Medicaid expansion
624 under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized
625 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter
626 1, Budgetary Procedures Act.

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

629 (i) receives approval from CMS to:

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

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

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

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

639 (A) the Medicaid Expansion Fund;

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

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

643 (iii) closes the Medicaid program to new enrollment under the Medicaid expansion
644 under this Subsection (4) if the department projects that the cost of the Medicaid expansion
645 under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized
646 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter
647 1, Budgetary Procedures Act.

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

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

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

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

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

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

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

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

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

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

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

677 (b) Notwithstanding Sections 26-18-18 and 63J-5-204, and in accordance with this
678 Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in

679 the optional Medicaid expansion population under the Patient Protection and Affordable Care
680 Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L.
681 No. 111-152, and related federal regulations and guidance, on the earlier of:

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

684 (ii) July 1, 2020.

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

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

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

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

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

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

698 (i) the Medicaid Expansion Fund;

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

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

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

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

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

709 (iii) the department may submit to CMS a request for waivers, or an amendment of

710 existing waivers, from federal law necessary to implement budget controls within the Medicaid
711 program to address the deficiency.

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

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

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

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

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

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

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

725 and

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

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

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

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

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

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

737 (c) estimated costs to the state for the Medicaid expansion for the current and
738 following fiscal years;

739 (d) recommendations to control costs of the Medicaid expansion; and

740 (e) as calculated in accordance with Subsections [26-36b-204\(4\)](#) and [26-36c-204\(2\)](#), the

741 state's net cost of the qualified Medicaid expansion.

742 Section 12. Section **26-18-408** is amended to read:

743 **26-18-408. Incentives to appropriately use emergency department services.**

744 (1) (a) This section applies to the Medicaid program and to the Utah Children's Health
745 Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

746 (b) As used in this section:

747 (i) "Managed care organization" means a comprehensive full risk managed care
748 delivery system that contracts with the Medicaid program or the Children's Health Insurance
749 Program to deliver health care through a managed care plan.

750 (ii) "Managed care plan" means a risk-based delivery service model authorized by
751 Section **26-18-405** and administered by a managed care organization.

752 (iii) "Non-emergent care":

753 (A) means use of the emergency department to receive health care that is non-emergent
754 as defined by the department by administrative rule adopted in accordance with Title 63G,
755 Chapter 3, Utah Administrative Rulemaking Act, and the Emergency Medical Treatment and
756 Active Labor Act; and

757 (B) does not mean the medical services provided to an individual required by the
758 Emergency Medical Treatment and Active Labor Act, including services to conduct a medical
759 screening examination to determine if the recipient has an emergent or non-emergent condition.

760 (iv) "Professional compensation" means payment made for services rendered to a
761 Medicaid recipient by an individual licensed to provide health care services.

762 (v) "Super-utilizer" means a Medicaid recipient who has been identified by the
763 recipient's managed care organization as a person who uses the emergency department
764 excessively, as defined by the managed care organization.

765 (2) (a) A managed care organization may, in accordance with Subsections (2)(b) and
766 (c):

767 (i) audit emergency department services provided to a recipient enrolled in the
768 managed care plan to determine if non-emergent care was provided to the recipient; and

769 (ii) establish differential payment for emergent and non-emergent care provided in an
770 emergency department.

771 (b) (i) The differential payments under Subsection (2)(a)(ii) do not apply to

772 professional compensation for services rendered in an emergency department.

773 (ii) Except in cases of suspected fraud, waste, and abuse, a managed care organization's
774 audit of payment under Subsection (2)(a)(i) is limited to the 18-month period of time after the
775 date on which the medical services were provided to the recipient. If fraud, waste, or abuse is
776 alleged, the managed care organization's audit of payment under Subsection (2)(a)(i) is limited
777 to three years after the date on which the medical services were provided to the recipient.

778 (c) The audits and differential payments under Subsections (2)(a) and (b) apply to
779 services provided to a recipient on or after July 1, 2015.

780 (3) A managed care organization shall:

781 (a) use the savings under Subsection (2) to maintain and improve access to primary
782 care and urgent care services for all Medicaid or CHIP recipients enrolled in the managed care
783 plan;

784 (b) provide viable alternatives for increasing primary care provider reimbursement
785 rates to incentivize after hours primary care access for recipients; and

786 (c) report to the department on how the managed care organization complied with this
787 Subsection (3).

788 (4) The department may:

789 (a) through administrative rule adopted by the department, develop quality
790 measurements that evaluate a managed care organization's delivery of:

791 (i) appropriate emergency department services to recipients enrolled in the managed
792 care plan;

793 (ii) expanded primary care and urgent care for recipients enrolled in the managed care
794 plan, with consideration of the managed care organization's:

795 (A) delivery of primary care, urgent care, and after hours care through means other than
796 the emergency department;

797 (B) recipient access to primary care providers and community health centers including
798 evening and weekend access; and

799 (C) other innovations for expanding access to primary care; and

800 (iii) quality of care for the managed care plan members;

801 (b) compare the quality measures developed under Subsection (4)(a) for each managed
802 care organization; and

803 (c) develop, by administrative rule, an algorithm to determine assignment of new,
804 unassigned recipients to specific managed care plans based on the plan's performance in
805 relation to the quality measures developed pursuant to Subsection (4)(a).

806 Section 13. Section **26-21-34** is amended to read:

807 **26-21-34. Treatment of miscarried remains.**

808 (1) As used in this section, "miscarried fetus" means a product of human conception,
809 regardless of gestational age, that has died from a spontaneous or accidental death before
810 expulsion or extraction from the mother, regardless of the duration of the pregnancy.

811 (2) (a) A health care facility having possession of a miscarried fetus shall provide for
812 the final disposition of the miscarried fetus through:

- 813 (i) cremation as that term is defined in Section [58-9-102](#); or
814 (ii) interment.

815 (b) A health care facility may not conduct the final disposition of a miscarried fetus
816 less than 72 hours after a woman has her miscarried fetus expelled or extracted in the health
817 care facility unless:

- 818 (i) the parent authorizes the health care facility, in writing, to conduct the final
819 disposition of the miscarried fetus less than 72 hours after the miscarriage occurs; or
820 (ii) immediate disposition is required under state or federal law.

821 (c) A health care facility may serve as an authorizing agent as defined in Section
822 [58-9-102](#) with respect to the final disposition of a miscarried fetus if:

823 (i) the parent provides written authorization for the health care facility to act as the
824 authorizing agent; or

825 (ii) (A) more than 72 hours have passed since the miscarriage occurs; and

826 (B) the parent did not exercise their right to control the final disposition of the
827 miscarried fetus under Subsection (4)(a).

828 (d) Within 120 business days after the day on which a miscarriage occurs, a health care
829 facility possessing miscarried remains shall:

- 830 (i) conduct the final disposition of the miscarried remains in accordance with this
831 section; or
832 (ii) ensure that the miscarried remains are preserved until final disposition.

833 (e) A health care facility shall conduct the final disposition under this section in

834 accordance with applicable state and federal law.

835 (3) (a) No more than 24 hours after a woman has her miscarried fetus expelled or
836 extracted in a health care facility, the health care facility shall provide information to the parent
837 or parents of the miscarried fetus regarding:

- 838 (i) the parents' right to determine the final disposition of the miscarried fetus;
- 839 (ii) the available options for disposition of the miscarried fetus; and
- 840 (iii) counseling that may be available concerning the death of the miscarried fetus.

841 (b) A health care facility shall:

842 (i) provide the information described in Subsection (3)(a) through:

- 843 (A) a form approved by the department;
- 844 (B) an in-person consultation with a physician; or
- 845 (C) an in-person consultation with a mental health therapist as defined in Section
846 [58-60-102](#); and

847 (ii) if the parent or parents make a decision under Subsection (4)(b), document the
848 parent's decision under Subsection (4)(b) in the parent's medical record.

849 (4) The parents of a miscarried fetus:

- 850 (a) have the right to control the final disposition of the miscarried fetus;
- 851 (b) if the parents have a preference for disposition of the miscarried fetus, shall inform
852 the health care facility of the parents' decision for final disposition of the miscarried fetus; and
- 853 (c) are responsible for the costs related to the final disposition of the miscarried fetus at
854 the chosen location if the parents choose a method or location for the final disposition of the
855 miscarried fetus that is different from the method or location that is usual and customary for the
856 health care facility.

857 (5) The form described in Subsection (3)(b)(i) shall include the following information:

858 "You have the right to decide what you would like to do with the miscarried fetus. You
859 may decide for the provider to be responsible for disposition of the fetus. The provider may
860 dispose of the miscarried fetus by burial or cremation. You can ask the provider if you want to
861 know the specific method for disposition."

862 (6) (a) A health care facility may not include a miscarried fetus with other biological,
863 infectious, or pathological waste.

864 (b) Fetal tissue that is sent for permanently fixed pathology or used for genetic study is

865 not subject to the requirements of this section.

866 (c) (i) A health care facility is responsible for maintaining a record to demonstrate to
867 the department that the health care facility has complied with the provisions of this section.

868 (ii) The records described in Subsection (6)(c)(i) shall be:

869 (A) maintained for at least two years; and

870 (B) made available to the department for inspection upon request by the department.

871 Section 14. Section **26-67-102** is amended to read:

872 **26-67-102. Definitions.**

873 As used in this chapter:

874 (1) "Adult Autism Treatment Account" means the Adult Autism Treatment Account
875 created in Section ~~[26-67-204]~~ [26-67-205](#).

876 (2) "Advisory committee" means the Adult Autism Treatment Program Advisory
877 Committee created in Section [26-1-7](#).

878 (3) "Applied behavior analysis" means the same as that term is defined in Section
879 [31A-22-642](#).

880 (4) "Autism spectrum disorder" means the same as that term is defined in Section
881 [31A-22-642](#).

882 (5) "Program" means the Adult Autism Treatment Program created in Section
883 [26-67-201](#).

884 (6) "Qualified individual" means an individual who:

885 (a) is at least 22 years ~~[of age]~~ old;

886 (b) is a resident of the state;

887 (c) has been diagnosed by a qualified professional as having:

888 (i) an autism spectrum disorder; or

889 (ii) another neurodevelopmental disorder requiring significant supports through
890 treatment using applied behavior analysis; and

891 (d) needs significant supports for a condition described in Subsection (6)(c), as
892 demonstrated by formal assessments of the individual's:

893 (i) cognitive ability;

894 (ii) adaptive ability;

895 (iii) behavior; and

896 (iv) communication ability.

897 (7) "Qualified provider" means a provider that is qualified under Section 26-67-202 to
898 provide services for the program.

899 Section 15. Section 26-67-204 is amended to read:

900 **26-67-204. Department rulemaking.**

901 The department, in collaboration with the advisory committee, shall make rules in
902 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- 903 (1) specify assessment tools and outcomes that a qualified provider may use to
904 determine the types of supports that a qualified [~~individuals~~] individual needs;
- 905 (2) define evidence-based treatments that a qualified individual may pay for with grant
906 funding;
- 907 (3) establish criteria for awarding a grant under this chapter;
- 908 (4) specify the information that an individual shall submit to demonstrate that the
909 individual is a qualified individual;
- 910 (5) specify the information a provider shall submit to demonstrate that the provider is a
911 qualified provider; and
- 912 (6) specify the content and timing of reports required from a qualified provider,
913 including a report on actual and projected treatment outcomes for a qualified individual.

914 Section 16. Section 31A-22-626.5 is amended to read:

915 **31A-22-626.5. Affordable insulin study.**

- 916 (1) As used in this section, "insulin" means a prescription drug that contains insulin.
- 917 (2) The department shall obtain funding through grants to fund a study on insulin costs.
- 918 (3) If the department obtains the funding described in Subsection (2), the department
919 shall, on or before October 30, 2020, complete a study on the cost of insulin manufacturing and
920 factors that determine the price of insulin.
- 921 (4) The department shall use public, readily available data accessible to the department
922 to conduct the study described in Subsection (3).
- 923 (5) The study described in Subsection (3) shall investigate:
 - 924 (a) current and historical trend information about the wholesale acquisition cost of
925 insulin;
 - 926 (b) the cost to produce insulin;

- 927 (c) explanations for increases in insulin costs;
- 928 (d) expenditures of drug manufacturers in marketing insulin;
- 929 (e) manufacturers' net profits from insulin;
- 930 (f) the portion of [a] drug manufacturers' total net profits that is composed of insulin
931 net profits;
- 932 (g) financial assistance currently available to individuals who use insulin through
933 patient prescription assistance programs;
- 934 (h) value to individuals who use insulin benefits including:
- 935 (i) coupons provided directly to individuals who use insulin; and
- 936 (ii) programs to assist individuals who use insulin in paying co-payments and
937 coinsurance;
- 938 (i) costs to drug manufacturers of the programs described in Subsection (5)(h);
- 939 (j) total value of benefits manufacturers provide in the form of rebates for insulin to
940 health plans or pharmacy benefit managers in Utah; and
- 941 (k) additional information that the department determines will aid the Legislature in
942 developing policy to reduce insulin prices in Utah.
- 943 (6) (a) On or before October 30, 2020, the department shall submit a final report on the
944 study described in Subsection (3) to the Health and Human Services Interim Committee and
945 the Business and Labor Interim Committee.
- 946 (b) The department's report may include recommendations on legislation for:
- 947 (i) increased drug pricing transparency; and
- 948 (ii) programs that would meaningfully reduce the cost of insulin.
- 949 (c) The final report shall include references to all sources of information and data used
950 in the report and study, except the department may not disclose information that is proprietary
951 or protected under state law or federal law or regulation.
- 952 Section 17. Section **32B-1-102** is amended to read:
- 953 **32B-1-102. Definitions.**
- 954 As used in this title:
- 955 (1) "Airport lounge" means a business location:
- 956 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- 957 (b) that is located at an international airport with a United States Customs office on the

958 premises of the international airport.

959 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,
960 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

961 (3) "Alcoholic beverage" means the following:

962 (a) beer; or

963 (b) liquor.

964 (4) (a) "Alcoholic product" means a product that:

965 (i) contains at least .5% of alcohol by volume; and

966 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other
967 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
968 in an amount equal to or greater than .5% of alcohol by volume.

969 (b) "Alcoholic product" includes an alcoholic beverage.

970 (c) "Alcoholic product" does not include any of the following common items that
971 otherwise come within the definition of an alcoholic product:

972 (i) except as provided in Subsection (4)(d), an extract;

973 (ii) vinegar;

974 (iii) preserved nonintoxicating cider;

975 (iv) essence;

976 (v) tincture;

977 (vi) food preparation; or

978 (vii) an over-the-counter medicine.

979 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
980 when it is used as a flavoring in the manufacturing of an alcoholic product.

981 (5) "Alcohol training and education seminar" means a seminar that is:

982 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

983 (b) described in Section [62A-15-401](#).

984 (6) "Arena" means an enclosed building:

985 (a) that is managed by:

986 (i) the same person who owns the enclosed building;

987 (ii) a person who has a majority interest in each person who owns or manages a space
988 in the enclosed building; or

989 (iii) a person who has authority to direct or exercise control over the management or
990 policy of each person who owns or manages a space in the enclosed building;

991 (b) that operates as a venue; and

992 (c) that has an occupancy capacity of at least 12,500.

993 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail
994 License Act, and Chapter 8c, Arena License Act.

995 (8) "Banquet" means an event:

996 (a) that is a private event or a privately sponsored event;

997 (b) that is held at one or more designated locations approved by the commission in or
998 on the premises of:

999 (i) a hotel;

1000 (ii) a resort facility;

1001 (iii) a sports center;

1002 (iv) a convention center;

1003 (v) a performing arts facility; or

1004 (vi) an arena;

1005 (c) for which there is a contract:

1006 (i) between a person operating a facility listed in Subsection (8)(b) and another person
1007 that has common ownership of less than 20% with the person operating the facility; and

1008 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to
1009 provide an alcoholic product at the event; and

1010 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.

1011 (9) "Bar structure" means a surface or structure on a licensed premises if on or at any
1012 place of the surface or structure an alcoholic product is:

1013 (a) stored; or

1014 (b) dispensed.

1015 (10) (a) "Bar establishment license" means a license issued in accordance with Chapter
1016 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

1017 (b) "Bar establishment license" includes:

1018 (i) a dining club license;

1019 (ii) an equity license;

- 1020 (iii) a fraternal license; or
- 1021 (iv) a bar license.
- 1022 (11) "Bar license" means a license issued in accordance with Chapter 5, Retail License
- 1023 Act, and Chapter 6, Part 4, Bar Establishment License.
- 1024 (12) (a) Subject to Subsection [~~(10)~~] (12)(d), "beer" means a product that:
- 1025 (i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by
- 1026 volume or 4% by weight; and
- 1027 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 1028 (b) "Beer" may or may not contain hops or other vegetable products.
- 1029 (c) "Beer" includes a product that:
- 1030 (i) contains alcohol in the percentages described in Subsection (12)(a); and
- 1031 (ii) is referred to as:
- 1032 (A) beer;
- 1033 (B) ale;
- 1034 (C) porter;
- 1035 (D) stout;
- 1036 (E) lager; or
- 1037 (F) a malt or malted beverage.
- 1038 (d) "Beer" does not include a flavored malt beverage.
- 1039 (13) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 1040 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1041 (14) "Beer retailer" means a business that:
- 1042 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 1043 for consumption on or off the business premises; and
- 1044 (b) is licensed as:
- 1045 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 1046 Retailer Local Authority; or
- 1047 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
- 1048 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 1049 (15) "Beer wholesaling license" means a license:
- 1050 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

1051 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
1052 retail licensees or off-premise beer retailers.

1053 (16) "Billboard" means a public display used to advertise, including:

1054 (a) a light device;

1055 (b) a painting;

1056 (c) a drawing;

1057 (d) a poster;

1058 (e) a sign;

1059 (f) a signboard; or

1060 (g) a scoreboard.

1061 (17) "Brewer" means a person engaged in manufacturing:

1062 (a) beer;

1063 (b) heavy beer; or

1064 (c) a flavored malt beverage.

1065 (18) "Brewery manufacturing license" means a license issued in accordance with
1066 Chapter 11, Part 5, Brewery Manufacturing License.

1067 (19) "Certificate of approval" means a certificate of approval obtained from the
1068 department under Section [32B-11-201](#).

1069 (20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
1070 a bus company to a group of persons pursuant to a common purpose:

1071 (a) under a single contract;

1072 (b) at a fixed charge in accordance with the bus company's tariff; and

1073 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
1074 motor vehicle, and a driver to travel together to one or more specified destinations.

1075 (21) "Church" means a building:

1076 (a) set apart for worship;

1077 (b) in which religious services are held;

1078 (c) with which clergy is associated; and

1079 (d) that is tax exempt under the laws of this state.

1080 (22) "Commission" means the Alcoholic Beverage Control Commission created in
1081 Section [32B-2-201](#).

- 1082 (23) "Commissioner" means a member of the commission.
- 1083 (24) "Community location" means:
- 1084 (a) a public or private school;
- 1085 (b) a church;
- 1086 (c) a public library;
- 1087 (d) a public playground; or
- 1088 (e) a public park.
- 1089 (25) "Community location governing authority" means:
- 1090 (a) the governing body of the community location; or
- 1091 (b) if the commission does not know who is the governing body of a community
- 1092 location, a person who appears to the commission to have been given on behalf of the
- 1093 community location the authority to prohibit an activity at the community location.
- 1094 (26) "Container" means a receptacle that contains an alcoholic product, including:
- 1095 (a) a bottle;
- 1096 (b) a vessel; or
- 1097 (c) a similar item.
- 1098 (27) "Convention center" means a facility that is:
- 1099 (a) in total at least 30,000 square feet; and
- 1100 (b) otherwise defined as a "convention center" by the commission by rule.
- 1101 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 1102 where seating is provided to a patron for service of food.
- 1103 (b) "Counter" does not include a dispensing structure.
- 1104 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1105 (30) "Department" means the Department of Alcoholic Beverage Control created in
- 1106 Section [32B-2-203](#).
- 1107 (31) "Department compliance officer" means an individual who is:
- 1108 (a) an auditor or inspector; and
- 1109 (b) employed by the department.
- 1110 (32) "Department sample" means liquor that is placed in the possession of the
- 1111 department for testing, analysis, and sampling.
- 1112 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail

1113 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1114 commission as a dining club license.

1115 (34) "Director," unless the context requires otherwise, means the director of the
1116 department.

1117 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
1118 title:

1119 (a) against a person subject to administrative action; and

1120 (b) that is brought on the basis of a violation of this title.

1121 (36) (a) Subject to Subsection (36)(b), "dispense" means:

1122 (i) drawing an alcoholic product; and

1123 (ii) using the alcoholic product at the location from which it was drawn to mix or
1124 prepare an alcoholic product to be furnished to a patron of the retail licensee.

1125 (b) The definition of "dispense" in this Subsection (36) applies only to:

1126 (i) a full-service restaurant license;

1127 (ii) a limited-service restaurant license;

1128 (iii) a reception center license; and

1129 (iv) a beer-only restaurant license.

1130 (37) "Dispensing structure" means a surface or structure on a licensed premises:

1131 (a) where an alcoholic product is dispensed; or

1132 (b) from which an alcoholic product is served.

1133 (38) "Distillery manufacturing license" means a license issued in accordance with
1134 Chapter 11, Part 4, Distillery Manufacturing License.

1135 (39) "Distressed merchandise" means an alcoholic product in the possession of the
1136 department that is saleable, but for some reason is unappealing to the public.

1137 (40) "Equity license" means a license issued in accordance with Chapter 5, Retail
1138 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1139 commission as an equity license.

1140 (41) "Event permit" means:

1141 (a) a single event permit; or

1142 (b) a temporary beer event permit.

1143 (42) "Exempt license" means a license exempt under Section [32B-1-201](#) from being

1144 considered in determining the total number of retail licenses that the commission may issue at
1145 any time.

1146 (43) (a) "Flavored malt beverage" means a beverage:

1147 (i) that contains at least .5% alcohol by volume;

1148 (ii) that is treated by processing, filtration, or another method of manufacture that is not
1149 generally recognized as a traditional process in the production of a beer as described in 27
1150 C.F.R. Sec. 25.55;

1151 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
1152 extract; and

1153 (iv) (A) for which the producer is required to file a formula for approval with the
1154 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

1155 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

1156 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

1157 (44) "Fraternal license" means a license issued in accordance with Chapter 5, Retail
1158 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the
1159 commission as a fraternal license.

1160 (45) "Full-service restaurant license" means a license issued in accordance with
1161 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

1162 (46) (a) "Furnish" means by any means to provide with, supply, or give an individual
1163 an alcoholic product, by sale or otherwise.

1164 (b) "Furnish" includes to:

1165 (i) serve;

1166 (ii) deliver; or

1167 (iii) otherwise make available.

1168 (47) "Guest" means an individual who meets the requirements of Subsection
1169 [32B-6-407\(9\)](#).

1170 (48) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

1171 (49) "Health care practitioner" means:

1172 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1173 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

1174 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

- 1175 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
1176 Act;
- 1177 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
1178 Nurse Practice Act;
- 1179 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
1180 Practice Act;
- 1181 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
1182 Therapy Practice Act;
- 1183 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 1184 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
1185 Professional Practice Act;
- 1186 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 1187 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
1188 Practice Act;
- 1189 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
1190 Hygienist Practice Act; and
- 1191 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1192 Assistant Act.
- 1193 (50) (a) "Heavy beer" means a product that:
1194 (i) contains more than 5% alcohol by volume; and
1195 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 1196 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 1197 (51) "Hospitality amenity license" means a license issued in accordance with Chapter
1198 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- 1199 (52) "Hotel" means a commercial lodging establishment that:
1200 (a) offers at least 40 rooms as temporary sleeping accommodations for compensation;
1201 (b) is capable of hosting conventions, conferences, and food and beverage functions
1202 under a banquet contract; and
- 1203 (c) (i) has adequate kitchen or culinary facilities on the premises to provide complete
1204 meals; or
1205 (ii) (A) has at least 1,000 square feet of function space consisting of meeting or dining

1206 rooms that can be reserved for private use under a banquet contract and can accommodate at
1207 least 75 individuals; or

1208 (B) if the establishment is located in a small or unincorporated locality, has an
1209 appropriate amount of function space consisting of meeting or dining rooms that can be
1210 reserved for private use under a banquet contract, as determined by the commission.

1211 (53) "Hotel license" means a license issued in accordance with Chapter 5, Retail
1212 License Act, and Chapter 8b, Hotel License Act.

1213 (54) "Identification card" means an identification card issued under Title 53, Chapter 3,
1214 Part 8, Identification Card Act.

1215 (55) "Industry representative" means an individual who is compensated by salary,
1216 commission, or other means for representing and selling an alcoholic product of a
1217 manufacturer, supplier, or importer of liquor.

1218 (56) "Industry representative sample" means liquor that is placed in the possession of
1219 the department for testing, analysis, and sampling by a local industry representative on the
1220 premises of the department to educate the local industry representative of the quality and
1221 characteristics of the product.

1222 (57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing
1223 of an alcoholic product is prohibited by:

- 1224 (a) law; or
- 1225 (b) court order.

1226 (58) "Intoxicated" means that a person:

1227 (a) is significantly impaired as to the person's mental or physical functions as a result of
1228 the use of:

- 1229 (i) an alcoholic product;
- 1230 (ii) a controlled substance;
- 1231 (iii) a substance having the property of releasing toxic vapors; or
- 1232 (iv) a combination of Subsections (58)(a)(i) through (iii); and

1233 (b) exhibits plain and easily observed outward manifestations of behavior or physical
1234 signs produced by the overconsumption of an alcoholic product.

1235 (59) "Investigator" means an individual who is:

- 1236 (a) a department compliance officer; or

- 1237 (b) a nondepartment enforcement officer.
- 1238 (60) "License" means:
- 1239 (a) a retail license;
- 1240 (b) a sublicense;
- 1241 (c) a license issued in accordance with Chapter 11, Manufacturing and Related
- 1242 Licenses Act;
- 1243 (d) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 1244 (e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or
- 1245 (f) a license issued in accordance with Chapter 17, Liquor Transport License Act.
- 1246 (61) "Licensee" means a person who holds a license.
- 1247 (62) "Limited-service restaurant license" means a license issued in accordance with
- 1248 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 1249 (63) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 1250 than a bus or taxicab:
- 1251 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 1252 barrier;
- 1253 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 1254 accordance with the business entity's tariff; and
- 1255 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 1256 to travel to one or more specified destinations.
- 1257 (64) (a) (i) "Liquor" means a liquid that:
- 1258 (A) is:
- 1259 (I) alcohol;
- 1260 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 1261 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 1262 (IV) other drink or drinkable liquid; and
- 1263 (B) (I) contains at least .5% alcohol by volume; and
- 1264 (II) is suitable to use for beverage purposes.
- 1265 (ii) "Liquor" includes:
- 1266 (A) heavy beer;
- 1267 (B) wine; and

- 1268 (C) a flavored malt beverage.
- 1269 (b) "Liquor" does not include beer.
- 1270 (65) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).
- 1271 (66) "Liquor transport license" means a license issued in accordance with Chapter 17,
- 1272 Liquor Transport License Act.
- 1273 (67) "Liquor warehousing license" means a license that is issued:
 - 1274 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
 - 1275 (b) to a person, other than a licensed manufacturer, who engages in the importation for
 - 1276 storage, sale, or distribution of liquor regardless of amount.
- 1277 (68) "Local authority" means:
 - 1278 (a) for premises that are located in an unincorporated area of a county, the governing
 - 1279 body of a county;
 - 1280 (b) for premises that are located in an incorporated city, town, or metro township, the
 - 1281 governing body of the city, town, or metro township; or
 - 1282 (c) for premises that are located in a project area as defined in Section [\[63H-1-201\]](#)
 - 1283 [63H-1-102](#) and in a project area plan adopted by the Military Installation Development
 - 1284 Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the
 - 1285 Military Installation Development Authority.
- 1286 (69) "Lounge or bar area" is as defined by rule made by the commission.
- 1287 (70) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or
- 1288 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 1289 (71) "Member" means an individual who, after paying regular dues, has full privileges
- 1290 in an equity licensee or fraternal licensee.
- 1291 (72) (a) "Military installation" means a base, air field, camp, post, station, yard, center,
- 1292 or homeport facility for a ship:
 - 1293 (i) (A) under the control of the United States Department of Defense; or
 - 1294 (B) of the National Guard;
 - 1295 (ii) that is located within the state; and
 - 1296 (iii) including a leased facility.
- 1297 (b) "Military installation" does not include a facility used primarily for:
 - 1298 (i) civil works;

- 1299 (ii) a rivers and harbors project; or
- 1300 (iii) a flood control project.
- 1301 (73) "Minibar" means an area of a hotel guest room where one or more alcoholic
- 1302 products are kept and offered for self-service sale or consumption.
- 1303 (74) "Minor" means an individual under the age of 21 years.
- 1304 (75) "Nondepartment enforcement agency" means an agency that:
- 1305 (a) (i) is a state agency other than the department; or
- 1306 (ii) is an agency of a county, city, town, or metro township; and
- 1307 (b) has a responsibility to enforce one or more provisions of this title.
- 1308 (76) "Nondepartment enforcement officer" means an individual who is:
- 1309 (a) a peace officer, examiner, or investigator; and
- 1310 (b) employed by a nondepartment enforcement agency.
- 1311 (77) (a) "Off-premise beer retailer" means a beer retailer who is:
- 1312 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- 1313 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 1314 premises.
- 1315 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 1316 (78) "Off-premise beer retailer state license" means a state license issued in accordance
- 1317 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.
- 1318 (79) "On-premise banquet license" means a license issued in accordance with Chapter
- 1319 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 1320 (80) "On-premise beer retailer" means a beer retailer who is:
- 1321 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 1322 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 1323 Retailer License; and
- 1324 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 1325 premises:
- 1326 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 1327 premises; and
- 1328 (ii) on and after March 1, 2012, operating:
- 1329 (A) as a tavern; or

- 1330 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 1331 (81) "Opaque" means impenetrable to sight.
- 1332 (82) "Package agency" means a retail liquor location operated:
 - 1333 (a) under an agreement with the department; and
 - 1334 (b) by a person:
 - 1335 (i) other than the state; and
 - 1336 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
 - 1337 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 1338 (83) "Package agent" means a person who holds a package agency.
- 1339 (84) "Patron" means an individual to whom food, beverages, or services are sold,
 - 1340 offered for sale, or furnished, or who consumes an alcoholic product including:
 - 1341 (a) a customer;
 - 1342 (b) a member;
 - 1343 (c) a guest;
 - 1344 (d) an attendee of a banquet or event;
 - 1345 (e) an individual who receives room service;
 - 1346 (f) a resident of a resort; or
 - 1347 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
 - 1348 license.
- 1349 (85) (a) "Performing arts facility" means a multi-use performance space that:
 - 1350 (i) is primarily used to present various types of performing arts, including dance,
 - 1351 music, and theater;
 - 1352 (ii) contains over 2,500 seats;
 - 1353 (iii) is owned and operated by a governmental entity; and
 - 1354 (iv) is located in a city of the first class.
- 1355 (b) "Performing arts facility" does not include a space that is used to present sporting
- 1356 events or sporting competitions.
- 1357 (86) "Permittee" means a person issued a permit under:
 - 1358 (a) Chapter 9, Event Permit Act; or
 - 1359 (b) Chapter 10, Special Use Permit Act.
- 1360 (87) "Person subject to administrative action" means:

- 1361 (a) a licensee;
- 1362 (b) a permittee;
- 1363 (c) a manufacturer;
- 1364 (d) a supplier;
- 1365 (e) an importer;
- 1366 (f) one of the following holding a certificate of approval:
 - 1367 (i) an out-of-state brewer;
 - 1368 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 1369 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 1370 (g) staff of:
 - 1371 (i) a person listed in Subsections (87)(a) through (f); or
 - 1372 (ii) a package agent.
- 1373 (88) "Premises" means a building, enclosure, or room used in connection with the
- 1374 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 1375 unless otherwise defined in this title or rules made by the commission.
- 1376 (89) "Prescription" means an order issued by a health care practitioner when:
 - 1377 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
 - 1378 to prescribe a controlled substance, other drug, or device for medicinal purposes;
 - 1379 (b) the order is made in the course of that health care practitioner's professional
 - 1380 practice; and
 - 1381 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1382 (90) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1383 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1384 (91) "Principal license" means:
 - 1385 (a) a resort license;
 - 1386 (b) a hotel license; or
 - 1387 (c) an arena license.
- 1388 (92) (a) "Private event" means a specific social, business, or recreational event:
 - 1389 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
 - 1390 group; and
 - 1391 (ii) that is limited in attendance to people who are specifically designated and their

1392 guests.

1393 (b) "Private event" does not include an event to which the general public is invited,
1394 whether for an admission fee or not.

1395 (93) "Privately sponsored event" means a specific social, business, or recreational
1396 event:

1397 (a) that is held in or on the premises of an on-premise banquet licensee; and

1398 (b) to which entry is restricted by an admission fee.

1399 (94) (a) "Proof of age" means:

1400 (i) an identification card;

1401 (ii) an identification that:

1402 (A) is substantially similar to an identification card;

1403 (B) is issued in accordance with the laws of a state other than Utah in which the
1404 identification is issued;

1405 (C) includes date of birth; and

1406 (D) has a picture affixed;

1407 (iii) a valid driver license certificate that:

1408 (A) includes date of birth;

1409 (B) has a picture affixed; and

1410 (C) is issued:

1411 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

1412 (II) in accordance with the laws of the state in which it is issued;

1413 (iv) a military identification card that:

1414 (A) includes date of birth; and

1415 (B) has a picture affixed; or

1416 (v) a valid passport.

1417 (b) "Proof of age" does not include a driving privilege card issued in accordance with
1418 Section [53-3-207](#).

1419 (95) "Provisions applicable to a sublicense" means:

1420 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service
1421 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

1422 (b) for a limited-service restaurant sublicense, the provisions applicable to a

1423 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

1424 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment
1425 license under Chapter 6, Part 4, Bar Establishment License;

1426 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise
1427 banquet license under Chapter 6, Part 6, On-Premise Banquet License;

1428 (e) for an on-premise beer retailer sublicense, the provisions applicable to an
1429 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer license;

1430 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only
1431 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

1432 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity
1433 license under Chapter 6, Part 10, Hospitality Amenity License; and

1434 (h) for a resort spa sublicense, the provisions applicable to the sublicense under
1435 Chapter 8d, Part 2, Resort Spa Sublicense.

1436 (96) (a) "Public building" means a building or permanent structure that is:

1437 (i) owned or leased by:

1438 (A) the state; or

1439 (B) a local government entity; and

1440 (ii) used for:

1441 (A) public education;

1442 (B) transacting public business; or

1443 (C) regularly conducting government activities.

1444 (b) "Public building" does not include a building owned by the state or a local
1445 government entity when the building is used by a person, in whole or in part, for a proprietary
1446 function.

1447 (97) "Public conveyance" means a conveyance that the public or a portion of the public
1448 has access to and a right to use for transportation, including an airline, railroad, bus, boat, or
1449 other public conveyance.

1450 (98) "Reception center" means a business that:

1451 (a) operates facilities that are at least 5,000 square feet; and

1452 (b) has as its primary purpose the leasing of the facilities described in Subsection

1453 (98)(a) to a third party for the third party's event.

1454 (99) "Reception center license" means a license issued in accordance with Chapter 5,
1455 Retail License Act, and Chapter 6, Part 8, Reception Center License.

1456 (100) (a) "Record" means information that is:

1457 (i) inscribed on a tangible medium; or

1458 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

1459 (b) "Record" includes:

1460 (i) a book;

1461 (ii) a book of account;

1462 (iii) a paper;

1463 (iv) a contract;

1464 (v) an agreement;

1465 (vi) a document; or

1466 (vii) a recording in any medium.

1467 (101) "Residence" means a person's principal place of abode within Utah.

1468 (102) "Resident," in relation to a resort, means the same as that term is defined in

1469 Section [32B-8-102](#).

1470 (103) "Resort" means the same as that term is defined in Section [32B-8-102](#).

1471 (104) "Resort facility" is as defined by the commission by rule.

1472 (105) "Resort spa sublicense" means a resort license sublicense issued in accordance
1473 with Chapter 8d, Part 2, Resort Spa Sublicense.

1474 (106) "Resort license" means a license issued in accordance with Chapter 5, Retail
1475 License Act, and Chapter 8, Resort License Act.

1476 (107) "Responsible alcohol service plan" means a written set of policies and
1477 procedures that outlines measures to prevent employees from:

1478 (a) over-serving alcoholic beverages to customers;

1479 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously
1480 intoxicated; and

1481 (c) serving alcoholic beverages to minors.

1482 (108) "Restaurant" means a business location:

1483 (a) at which a variety of foods are prepared;

1484 (b) at which complete meals are served; and

- 1485 (c) that is engaged primarily in serving meals.
- 1486 (109) "Restaurant license" means one of the following licenses issued under this title:
- 1487 (a) a full-service restaurant license;
- 1488 (b) a limited-service restaurant license; or
- 1489 (c) a beer-only restaurant license.
- 1490 (110) "Retail license" means one of the following licenses issued under this title:
- 1491 (a) a full-service restaurant license;
- 1492 (b) a master full-service restaurant license;
- 1493 (c) a limited-service restaurant license;
- 1494 (d) a master limited-service restaurant license;
- 1495 (e) a bar establishment license;
- 1496 (f) an airport lounge license;
- 1497 (g) an on-premise banquet license;
- 1498 (h) an on-premise beer license;
- 1499 (i) a reception center license;
- 1500 (j) a beer-only restaurant license;
- 1501 (k) a hospitality amenity license;
- 1502 (l) a resort license;
- 1503 (m) a hotel license; or
- 1504 (n) an arena license.
- 1505 (111) "Room service" means furnishing an alcoholic product to a person in a guest
- 1506 room of a:
- 1507 (a) hotel; or
- 1508 (b) resort facility.
- 1509 (112) (a) "School" means a building in which any part is used for more than three
- 1510 hours each weekday during a school year as a public or private:
- 1511 (i) elementary school;
- 1512 (ii) secondary school; or
- 1513 (iii) kindergarten.
- 1514 (b) "School" does not include:
- 1515 (i) a nursery school;

1516 (ii) a day care center;

1517 (iii) a trade and technical school;

1518 (iv) a preschool; or

1519 (v) a home school.

1520 (113) "Secondary flavoring ingredient" means any spirituous liquor added to a
1521 beverage for additional flavoring that is different in type, flavor, or brand from the primary
1522 spirituous liquor in the beverage.

1523 (114) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for
1524 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,
1525 delivered for value, or by a means or under a pretext is promised or obtained, whether done by
1526 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules
1527 made by the commission.

1528 (115) "Serve" means to place an alcoholic product before an individual.

1529 (116) "Sexually oriented entertainer" means a person who while in a state of
1530 seminudity appears at or performs:

1531 (a) for the entertainment of one or more patrons;

1532 (b) on the premises of:

1533 (i) a bar licensee; or

1534 (ii) a tavern;

1535 (c) on behalf of or at the request of the licensee described in Subsection (116)(b);

1536 (d) on a contractual or voluntary basis; and

1537 (e) whether or not the person is designated as:

1538 (i) an employee;

1539 (ii) an independent contractor;

1540 (iii) an agent of the licensee; or

1541 (iv) a different type of classification.

1542 (117) "Shared seating area" means the licensed premises of two or more restaurant
1543 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in
1544 accordance with Subsection [32B-5-207\(3\)](#).

1545 (118) "Single event permit" means a permit issued in accordance with Chapter 9, Part
1546 3, Single Event Permit.

1547 (119) "Small brewer" means a brewer who manufactures less than 60,000 barrels of
1548 beer, heavy beer, and flavored malt beverages per year.

1549 (120) "Small or unincorporated locality" means:

1550 (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

1551 (b) a town, as classified under Section 10-2-301; or

1552 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified
1553 under Section 17-50-501.

1554 (121) "Special use permit" means a permit issued in accordance with Chapter 10,
1555 Special Use Permit Act.

1556 (122) (a) "Spirituous liquor" means liquor that is distilled.

1557 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
1558 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

1559 (123) "Sports center" is as defined by the commission by rule.

1560 (124) (a) "Staff" means an individual who engages in activity governed by this title:

1561 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
1562 holder;

1563 (ii) at the request of the business, including a package agent, licensee, permittee, or
1564 certificate holder; or

1565 (iii) under the authority of the business, including a package agent, licensee, permittee,
1566 or certificate holder.

1567 (b) "Staff" includes:

1568 (i) an officer;

1569 (ii) a director;

1570 (iii) an employee;

1571 (iv) personnel management;

1572 (v) an agent of the licensee, including a managing agent;

1573 (vi) an operator; or

1574 (vii) a representative.

1575 (125) "State of nudity" means:

1576 (a) the appearance of:

1577 (i) the nipple or areola of a female human breast;

- 1578 (ii) a human genital;
- 1579 (iii) a human pubic area; or
- 1580 (iv) a human anus; or
- 1581 (b) a state of dress that fails to opaquely cover:
 - 1582 (i) the nipple or areola of a female human breast;
 - 1583 (ii) a human genital;
 - 1584 (iii) a human pubic area; or
 - 1585 (iv) a human anus.
- 1586 (126) "State of seminudity" means a state of dress in which opaque clothing covers no
- 1587 more than:
 - 1588 (a) the nipple and areola of the female human breast in a shape and color other than the
 - 1589 natural shape and color of the nipple and areola; and
 - 1590 (b) the human genitals, pubic area, and anus:
 - 1591 (i) with no less than the following at its widest point:
 - 1592 (A) four inches coverage width in the front of the human body; and
 - 1593 (B) five inches coverage width in the back of the human body; and
 - 1594 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 1595 (127) (a) "State store" means a facility for the sale of packaged liquor:
 - 1596 (i) located on premises owned or leased by the state; and
 - 1597 (ii) operated by a state employee.
- 1598 (b) "State store" does not include:
 - 1599 (i) a package agency;
 - 1600 (ii) a licensee; or
 - 1601 (iii) a permittee.
- 1602 (128) (a) "Storage area" means an area on licensed premises where the licensee stores
- 1603 an alcoholic product.
 - 1604 (b) "Store" means to place or maintain in a location an alcoholic product.
- 1605 (129) "Sublicense" means:
 - 1606 (a) any of the following licenses issued as a subordinate license to, and contingent on
 - 1607 the issuance of, a principal license:
 - 1608 (i) a full-service restaurant license;

- 1609 (ii) a limited-service restaurant license;
- 1610 (iii) a bar establishment license;
- 1611 (iv) an on-premise banquet license;
- 1612 (v) an on-premise beer retailer license;
- 1613 (vi) a beer-only restaurant license; or
- 1614 (vii) a hospitality amenity license; or
- 1615 (b) a resort spa sublicense.
- 1616 (130) "Supplier" means a person who sells an alcoholic product to the department.
- 1617 (131) "Tavern" means an on-premise beer retailer who is:
 - 1618 (a) issued a license by the commission in accordance with Chapter 5, Retail License
 - 1619 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
 - 1620 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
 - 1621 On-Premise Beer Retailer License.
- 1622 (132) "Temporary beer event permit" means a permit issued in accordance with
- 1623 Chapter 9, Part 4, Temporary Beer Event Permit.
- 1624 (133) "Temporary domicile" means the principal place of abode within Utah of a
- 1625 person who does not have a present intention to continue residency within Utah permanently or
- 1626 indefinitely.
- 1627 (134) "Translucent" means a substance that allows light to pass through, but does not
- 1628 allow an object or person to be seen through the substance.
- 1629 (135) "Unsaleable liquor merchandise" means a container that:
 - 1630 (a) is unsaleable because the container is:
 - 1631 (i) unlabeled;
 - 1632 (ii) leaky;
 - 1633 (iii) damaged;
 - 1634 (iv) difficult to open; or
 - 1635 (v) partly filled;
 - 1636 (b) (i) has faded labels or defective caps or corks;
 - 1637 (ii) has contents that are:
 - 1638 (A) cloudy;
 - 1639 (B) spoiled; or

1640 (C) chemically determined to be impure; or
1641 (iii) contains:
1642 (A) sediment; or
1643 (B) a foreign substance; or
1644 (c) is otherwise considered by the department as unfit for sale.
1645 (136) (a) "Wine" means an alcoholic product obtained by the fermentation of the
1646 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not
1647 another ingredient is added.
1648 (b) "Wine" includes:
1649 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.
1650 4.10; and
1651 (ii) hard cider.
1652 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided
1653 in this title.
1654 (137) "Winery manufacturing license" means a license issued in accordance with
1655 Chapter 11, Part 3, Winery Manufacturing License.
1656 Section 18. Section **41-6a-904** is amended to read:
1657 **41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary**
1658 **emergency vehicle -- Duties of respective operators.**
1659 (1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon
1660 the immediate approach of an authorized emergency vehicle using audible or visual signals
1661 under Section [41-6a-212](#) or [41-6a-1625](#), shall:
1662 (a) yield the right-of-way and immediately move to a position parallel to, and as close
1663 as possible to, the right-hand edge or curb of the highway, clear of any intersection; and
1664 (b) then stop and remain stopped until the authorized emergency vehicle has passed.
1665 (2) (a) The operator of a vehicle, upon approaching a stationary authorized emergency
1666 vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:
1667 (i) reduce the speed of the vehicle;
1668 (ii) provide as much space as practical to the stationary authorized emergency vehicle;
1669 and
1670 (iii) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if

1671 practical, with due regard to safety and traffic conditions, make a lane change into a lane not
1672 adjacent to the authorized emergency vehicle.

1673 (b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a
1674 stationary authorized emergency vehicle that is displaying alternately flashing red, red and
1675 white, or red and blue lights, the requirements in Subsection (2)(a) apply.

1676 (ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary
1677 authorized emergency vehicle that is displaying alternately flashing red, red and white, or red
1678 and blue lights, shall, if practical, with due regard to safety and traffic conditions, make a lane
1679 change out of the HOV lane into a lane not adjacent to the authorized emergency vehicle.

1680 (3) (a) The operator of a vehicle, upon approaching a stationary tow truck or highway
1681 maintenance vehicle that is displaying flashing amber lights, shall:

1682 (i) reduce the speed of the vehicle;

1683 (ii) provide as much space as practical to the stationary tow truck or highway
1684 maintenance vehicle; and

1685 (iii) if traveling in a lane adjacent to the stationary tow truck or highway maintenance
1686 vehicle, if practical and with due regard to safety and traffic conditions, make a lane change
1687 into a lane not adjacent to the tow truck or highway maintenance vehicle.

1688 (b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a
1689 stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights,
1690 the requirements in Subsection (3)(a) apply.

1691 (ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary
1692 tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall, if
1693 practical, with due regard to safety and traffic conditions, make a lane change out of the HOV
1694 lane into a lane not adjacent to the tow truck or highway maintenance vehicle.

1695 (4) When an authorized emergency vehicle is using audible or visual signals under
1696 Section [41-6a-212](#) or [41-6a-1625](#), the operator of a vehicle may not:

1697 (a) follow closer than 500 feet behind the authorized emergency vehicle;

1698 (b) pass the authorized emergency vehicle, if the authorized emergency vehicle is
1699 moving; or

1700 (c) stop the vehicle within 500 feet of a fire apparatus which has stopped in answer to a
1701 fire alarm.

1702 (5) This section does not relieve the operator of an authorized emergency vehicle, tow
1703 truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all
1704 persons using the highway.

1705 (6) (a) (i) In addition to the penalties prescribed under Subsection (8), a person who
1706 violates this section shall attend a four hour live classroom defensive driving course approved
1707 by:

1708 (A) the Driver License Division; or

1709 (B) a court in this state.

1710 (ii) Upon completion of the four hour live classroom course under Subsection (6)(a)(i),
1711 the person shall provide to the Driver License Division a certificate of attendance of the
1712 classroom course.

1713 (b) The Driver License Division shall suspend a person's driver license for a period of
1714 90 days if the person:

1715 (i) violates a provision of Subsections (1) through (3); and

1716 (ii) fails to meet the requirements of Subsection (6)(a)(i) within 90 days of sentencing
1717 for or pleading guilty to a violation of this section.

1718 (c) Notwithstanding the provisions of Subsection (6)(b), the Driver License Division
1719 shall shorten the 90-day suspension period imposed under Subsection (6)(b) effective
1720 immediately upon receiving a certificate of attendance of the four hour live classroom course
1721 required under Subsection (6)(a)(i) if the certificate of attendance is received before the
1722 completion of the suspension period.

1723 (d) A person whose license is suspended under Subsection (6)(b) and a person whose
1724 suspension is shortened as described under Subsection (6)(c) shall pay the license reinstatement
1725 fees under Subsection [53-3-105](#)(26).

1726 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1727 Driver License Division shall make rules to implement the provisions of this part.

1728 (8) A violation of Subsection (1), (2), ~~(3)~~, or (4) is an infraction.

1729 Section 19. Section **54-3-8** is amended to read:

1730 **54-3-8. Preferences forbidden -- Power of commission to determine facts --**

1731 **Applicability of section.**

1732 (1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility

1733 may not:

1734 (a) as to rates, charges, service, facilities or in any other respect, make or grant any
1735 preference or advantage to any person, or subject any person to any prejudice or disadvantage;
1736 and

1737 (b) establish or maintain any unreasonable difference as to rates, charges, service or
1738 facilities, or in any other respect, either as between localities or as between classes of service.

1739 (2) The commission shall have power to determine any question of fact arising under
1740 this section.

1741 (3) This section does not apply to, and the commission may not enforce this chapter
1742 concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility,
1743 or contract of an entity described in Subsection 54-2-1(8)(b)(iii) or (iv), (20), or (22)[(†)](h), or
1744 if the electricity is consumed by an eligible customer for the eligible customer's own use or the
1745 use of the eligible customer's tenant or affiliate.

1746 Section 20. Section 58-4a-107 is amended to read:

1747 **58-4a-107. Violation of a program contract -- Adjudicative proceedings --**
1748 **Penalties.**

1749 (1) The division shall serve an order to show cause on the licensee if the licensee:

1750 (a) violates any term or condition of the program contract or diversion agreement;

1751 (b) makes an intentional, material misrepresentation of fact in the program contract or
1752 diversion agreement; or

1753 (c) violates any rule or law governing the licensee's profession.

1754 (2) The order to show cause described in Subsection (1) shall:

1755 (a) describe the alleged misconduct;

1756 (b) set a time and place for a hearing before an administrative law judge to determine
1757 whether the licensee's program contract should be terminated; and

1758 (c) contain all of the information required by a notice of agency action in Subsection
1759 63G-4-201(2).

1760 (3) Proceedings to terminate a program contract shall comply with the rules for a
1761 formal proceeding described in Title 63G, Chapter 4, Administrative Procedures Act, except
1762 the notice of agency action shall be in the form of the order to show cause described in
1763 Subsection (2).

1764 (4) In accordance with Subsection 63G-4-205(1), the division shall make rules for
1765 discovery adequate to permit all parties to obtain all relevant information necessary to support
1766 their claims or defenses.

1767 (5) During a proceeding to terminate a program contract, the licensee, the licensee's
1768 legal representative, and the division shall have access to information contained in the
1769 division's program file as permitted by law.

1770 (6) The director shall terminate the program contract and place the licensee on
1771 probation for a period of five years, with probationary terms matching the terms of the program
1772 contract, if, during the administrative proceedings described in Subsection (3), the
1773 administrative law judge finds that the licensee has:

- 1774 (a) violated the program contract;
- 1775 (b) made an intentional material misrepresentation of fact in the program contract; or
- 1776 (c) violated a law or rule governing the licensee's profession.

1777 (7) If, during the proceedings described in Subsection (3), the administrative law judge
1778 finds that the licensee has engaged in especially egregious misconduct, the director may revoke
1779 the licensee's license.

1780 (8) A licensee who is terminated from the program may have disciplinary action taken
1781 under Title 58, Chapter 1, Part 4, License Denial, for misconduct committed before, during, or
1782 after the licensee's participation in the program.

1783 Section 21. Section 58-17b-1004 (Effective 07/01/20) is amended to read:

1784 **58-17b-1004 (Effective 07/01/20). Authorization to dispense an epinephrine**
1785 **auto-injector and stock albuterol pursuant to a standing order.**

1786 (1) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy
1787 intern may dispense an epinephrine auto-injector:

1788 (a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency
1789 Response for Life-threatening Conditions; or

1790 (ii) to a qualified epinephrine auto-injector entity for use in accordance with Title 26,
1791 Chapter 41, Emergency Response for Life-threatening Conditions;

1792 (b) pursuant to a standing prescription drug order made in accordance with Section
1793 58-17b-1005;

1794 (c) without any other prescription drug order from a person licensed to prescribe an

1795 epinephrine auto-injector; and

1796 (d) in accordance with the dispensing guidelines in Section 58-17b-1006.

1797 (2) Notwithstanding any other provision of this chapter, a pharmacist or [pharmacist]
1798 pharmacy intern may dispense stock albuterol:

1799 (a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency
1800 Response for Life-threatening Conditions; or

1801 (ii) to a qualified stock albuterol entity for use in accordance with Title 26, Chapter 41,
1802 Emergency Response for Life-threatening Conditions;

1803 (b) pursuant to a standing prescription drug order made in accordance with Section
1804 58-17b-1005;

1805 (c) without any other prescription drug order from a person licensed to prescribe stock
1806 albuterol; and

1807 (d) in accordance with the dispensing guidelines in Section 58-17b-1006.

1808 Section 22. Section 58-17b-1005 (Effective 07/01/20) is amended to read:

1809 **58-17b-1005 (Effective 07/01/20). Standing prescription drug orders for**
1810 **epinephrine auto-injectors and stock albuterol.**

1811 (1) A physician acting in the physician's capacity as an employee of the Department of
1812 Health or as a medical director of a local health department may issue a standing prescription
1813 drug order authorizing the dispensing of an epinephrine auto-injector under Section
1814 58-17b-1004 in accordance with a protocol that:

1815 (a) requires the physician to specify the persons, by professional license number,
1816 authorized to dispense the epinephrine auto-injector;

1817 (b) requires the physician to review at least annually the dispensing practices of those
1818 authorized by the physician to dispense the epinephrine auto-injector;

1819 (c) requires those authorized by the physician to dispense the epinephrine auto-injector
1820 to make and retain a record of each dispensing, including:

1821 (i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom
1822 the epinephrine auto-injector is dispensed;

1823 (ii) a description of the epinephrine auto-injector dispensed; and

1824 (iii) other relevant information; and

1825 (d) is approved by the division by administrative rule made in accordance with Title

1826 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians
1827 Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

1828 (2) A physician acting in the physician's capacity as an employee of the Department of
1829 Health or as a medical director of a local health department may issue a standing prescription
1830 drug order authorizing the dispensing of [the] stock albuterol under Section 58-17b-1004 in
1831 accordance with a protocol that:

1832 (a) requires the physician to specify the persons, by professional license number,
1833 authorized to dispense the stock albuterol;

1834 (b) requires the physician to review at least annually the dispensing practices of those
1835 authorized by the physician to dispense the stock albuterol;

1836 (c) requires those authorized by the physician to dispense the stock albuterol to make
1837 and retain a record of each dispensing, including:

1838 (i) the name of the qualified adult or qualified stock albuterol entity to whom the stock
1839 albuterol is dispensed;

1840 (ii) a description of the stock albuterol dispensed; and

1841 (iii) other relevant information; and

1842 (d) is approved by the division by administrative rule made in accordance with Title
1843 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians
1844 Licensing Board created in Section 58-67-201 and the board.

1845 Section 23. Section 58-31b-502 is amended to read:

1846 **58-31b-502. Unprofessional conduct.**

1847 (1) "Unprofessional conduct" includes:

1848 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
1849 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
1850 because of the licensee's or person with a certification's position or practice as a nurse or
1851 practice as a medication aide certified;

1852 (b) failure to provide nursing service or service as a medication aide certified in a
1853 manner that demonstrates respect for the patient's human dignity and unique personal character
1854 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
1855 status, age, sex, or the nature of the patient's health problem;

1856 (c) engaging in sexual relations with a patient during any:

- 1857 (i) period when a generally recognized professional relationship exists between the
1858 person licensed or certified under this chapter and the patient; or
- 1859 (ii) extended period when a patient has reasonable cause to believe a professional
1860 relationship exists between the person licensed or certified under the provisions of this chapter
1861 and the patient;
- 1862 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
1863 information about a patient or exploiting the licensee's or the person with a certification's
1864 professional relationship between the licensee or holder of a certification under this chapter and
1865 the patient; or
- 1866 (ii) exploiting the patient by use of the licensee's or person with a certification's
1867 knowledge of the patient obtained while acting as a nurse or a medication aide certified;
- 1868 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
- 1869 (f) unauthorized taking or personal use of nursing supplies from an employer;
- 1870 (g) unauthorized taking or personal use of a patient's personal property;
- 1871 (h) unlawful or inappropriate delegation of nursing care;
- 1872 (i) failure to exercise appropriate supervision of persons providing patient care services
1873 under supervision of the licensed nurse;
- 1874 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
1875 person to practice as a nurse;
- 1876 (k) failure to file or record any medical report as required by law, impeding or
1877 obstructing the filing or recording of such a report, or inducing another to fail to file or record
1878 such a report;
- 1879 (l) breach of a statutory, common law, regulatory, or ethical requirement of
1880 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 1881 (m) failure to pay a penalty imposed by the division;
- 1882 (n) prescribing a Schedule II controlled substance without complying with the
1883 requirements in Section 58-31b-803, if applicable;
- 1884 (o) violating Section 58-31b-801;
- 1885 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
1886 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
1887 applicable; [and]

1888 (q) establishing or operating a pain clinic without a consultation and referral plan for
1889 Schedule II or III controlled substances; or

1890 (r) falsely making an entry in, or altering, a medical record with the intent to conceal:

1891 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
1892 or an individual under the direction or control of an individual licensed under this chapter; or

1893 (ii) conduct described in Subsections (1)(a) through (q) or Subsection 58-1-501(1).

1894 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
1895 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term
1896 is defined in Section 26-61a-102, recommending the use of medical cannabis.

1897 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
1898 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
1899 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

1900 Section 24. Section 58-55-503 is amended to read:

1901 **58-55-503. Penalty for unlawful conduct -- Citations.**

1902 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
1903 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26),
1904 (27), or (28), or Subsection 58-55-504(2), or who fails to comply with a citation issued under
1905 this section after it is final, is guilty of a class A misdemeanor.

1906 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
1907 individual and does not include a sole proprietorship, joint venture, corporation, limited
1908 liability company, association, or organization of any type.

1909 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
1910 awarded and may not accept a contract for the performance of the work.

1911 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
1912 infraction unless the violator did so with the intent to deprive the person to whom money is to
1913 be paid of the money received, in which case the violator is guilty of theft, as classified in
1914 Section 76-6-412.

1915 (3) Grounds for immediate suspension of a licensee's license by the division and the
1916 commission include:

1917 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section
1918 58-55-501, or Subsection 58-55-504(2); and

1919 (b) the failure by a licensee to make application to, report to, or notify the division with
1920 respect to any matter for which application, notification, or reporting is required under this
1921 chapter or rules adopted under this chapter, including:

1922 (i) applying to the division for a new license to engage in a new specialty classification
1923 or to do business under a new form of organization or business structure;

1924 (ii) filing a current financial statement with the division; and

1925 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

1926 (4) (a) (i) If upon inspection or investigation, the division concludes that a person has
1927 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
1928 (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), Subsection
1929 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary
1930 action is appropriate, the director or the director's designee from within the division shall
1931 promptly issue a citation to the person according to this chapter and any pertinent rules, attempt
1932 to negotiate a stipulated settlement, or notify the person to appear before an adjudicative
1933 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1934 (ii) A person who is in violation of the provisions of Subsection 58-55-308(2),
1935 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24),
1936 (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a
1937 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
1938 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
1939 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
1940 (9), (10), (12), (16)(e), (18), [(19);] (20), (21), (24), (25), (26), (27), or (28), or Subsection
1941 58-55-504(2).

1942 (iii) Except for a cease and desist order, the licensure sanctions cited in Section
1943 58-55-401 may not be assessed through a citation.

1944 (b) (i) A citation shall be in writing and describe with particularity the nature of the
1945 violation, including a reference to the provision of the chapter, rule, or order alleged to have
1946 been violated.

1947 (ii) A citation shall clearly state that the recipient must notify the division in writing
1948 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
1949 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

1950 (iii) A citation shall clearly explain the consequences of failure to timely contest the
1951 citation or to make payment of any fines assessed by the citation within the time specified in
1952 the citation.

1953 (c) A citation issued under this section, or a copy of a citation, may be served upon a
1954 person upon whom a summons may be served:

1955 (i) in accordance with the Utah Rules of Civil Procedure;

1956 (ii) personally or upon the person's agent by a division investigator or by a person
1957 specially designated by the director; or

1958 (iii) by mail.

1959 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
1960 to whom the citation was issued fails to request a hearing to contest the citation, the citation
1961 becomes the final order of the division and is not subject to further agency review.

1962 (ii) The period to contest a citation may be extended by the division for cause.

1963 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
1964 the license of a licensee who fails to comply with a citation after the citation becomes final.

1965 (f) The failure of an applicant for licensure to comply with a citation after the citation
1966 becomes final is a ground for denial of license.

1967 (g) A citation may not be issued under this section after the expiration of one year
1968 following the date on which the violation that is the subject of the citation is reported to the
1969 division.

1970 (h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's
1971 designee shall assess a fine in accordance with the following:

1972 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

1973 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

1974 and

1975 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
1976 \$2,000 for each day of continued offense.

1977 (ii) Except as provided in Subsection (5), if a person violates Subsection
1978 [58-55-501\(16\)\(e\)](#) or (28), the director or the director's designee shall assess a fine in
1979 accordance with the following:

1980 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

1981 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$4,000;
1982 and

1983 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
1984 \$4,000 for each day of continued offense.

1985 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
1986 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

1987 (A) the division previously issued a final order determining that a person committed a
1988 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
1989 (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection
1990 58-55-504(2); or

1991 (B) (I) the division initiated an action for a first or second offense;

1992 (II) a final order has not been issued by the division in the action initiated under
1993 Subsection (4)(i)(i)(B)(I);

1994 (III) the division determines during an investigation that occurred after the initiation of
1995 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
1996 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
1997 (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection
1998 58-55-504(2); and

1999 (IV) after determining that the person committed a second or subsequent offense under
2000 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
2001 Subsection (4)(i)(i)(B)(I).

2002 (ii) In issuing a final order for a second or subsequent offense under Subsection
2003 (4)(i)(i), the division shall comply with the requirements of this section.

2004 (j) In addition to any other licensure sanction or fine imposed under this section, the
2005 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
2006 two or more times within a 12-month period, unless, with respect to a violation of Subsection
2007 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
2008 legal working status of the individual who was the subject of the violation using a status
2009 verification system, as defined in Section 13-47-102.

2010 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
2011 for each individual is considered a separate violation.

2012 (5) If a person violates Section 58-55-501, the division may not treat the violation as a
2013 subsequent violation of a previous violation if the violation occurs five years or more after the
2014 day on which the person committed the previous violation.

2015 (6) If, after an investigation, the division determines that a person has committed
2016 multiple of the same type of violation of Section 58-55-501, the division may treat each
2017 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
2018 each violation.

2019 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
2020 into the Commerce Service Account created by Section 13-1-2.

2021 (b) A penalty that is not paid may be collected by the director by either referring the
2022 matter to a collection agency or bringing an action in the district court of the county in which
2023 the person against whom the penalty is imposed resides or in the county where the office of the
2024 director is located.

2025 (c) A county attorney or the attorney general of the state shall provide legal assistance
2026 and advice to the director in an action to collect a penalty.

2027 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
2028 fees and costs to the prevailing party.

2029 Section 25. Section 58-60-405 is amended to read:

2030 **58-60-405. Qualifications for licensure.**

2031 (1) An applicant for licensure as a clinical mental health counselor shall:

2032 (a) submit an application on a form provided by the division;

2033 (b) pay a fee determined by the department under Section 63J-1-504;

2034 (c) produce certified transcripts evidencing completion of:

2035 (i) a master's or doctorate degree conferred to the applicant in:

2036 (A) clinical mental health counseling, clinical rehabilitation counseling, counselor
2037 education and supervision from a program accredited by the Council for Accreditation of
2038 Counseling and Related Educational Programs; or

2039 (B) clinical mental health counseling or an equivalent field from a program affiliated
2040 with an institution that has accreditation that is recognized by the Council for Higher Education
2041 Accreditation; and

2042 (ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to

2043 an educational program described in Subsection (1)(d)(i);

2044 (d) have completed a minimum of 4,000 hours of clinical mental health counselor
2045 training as defined by division rule under Section 58-1-203:

2046 (i) in not less than two years;

2047 (ii) under the supervision of a clinical mental health counselor, psychiatrist,
2048 psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or
2049 marriage and family therapist supervisor approved by the division in collaboration with the
2050 board;

2051 (iii) obtained after completion of the education requirement in Subsection (1)(c); and

2052 (iv) including a minimum of two hours of training in suicide prevention via a course
2053 that the division designates as approved;

2054 (e) document successful completion of not less than 1,000 hours of supervised training
2055 in mental health therapy obtained after completion of the education requirement in Subsection
2056 (1)(c), which training may be included as part of the 4,000 hours of training in Subsection
2057 (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were
2058 obtained under the direct supervision of a mental health therapist, as defined by rule; and

2059 (f) pass the examination requirement established by division rule under Section
2060 58-1-203.

2061 (2) (a) An applicant for licensure as an associate clinical mental health counselor shall
2062 comply with the provisions of Subsections (1)(a), (b), and (c).

2063 (b) Except as provided under Subsection (2)(c), an individual's licensure as an
2064 associate clinical mental health counselor is limited to the period of time necessary to complete
2065 clinical training as described in Subsections (1)(d) and (e) and extends not more than one year
2066 from the date the minimum requirement for training is completed.

2067 (c) The time period under Subsection (2)(b) may be extended to a maximum of two
2068 years past the date the minimum supervised clinical training requirement has been completed,
2069 if the applicant presents satisfactory evidence to the division and the appropriate board that the
2070 individual is:

2071 (i) making reasonable progress toward passing of the qualifying examination for that
2072 profession; or

2073 (ii) otherwise on a course reasonably expected to lead to licensure.

2074 (3) (a) Notwithstanding Subsection (1)(d), an applicant [~~satisfied~~] satisfies the
2075 education requirement described in Subsection (1)(d) if the applicant submits documentation
2076 verifying:

2077 (i) satisfactory completion of a doctoral or master's degree from an educational
2078 program in rehabilitation counseling accredited by the Council for Accreditation of Counseling
2079 and Related Educational Programs;

2080 (ii) satisfactory completion of at least 60 semester credit hours or 90 quarter credit
2081 hours of coursework related to an educational program described in Subsection (1)(d)(i); and

2082 (iii) that the applicant received a passing score that is valid and in good standing on:

2083 (A) the National Counselor Examination; and

2084 (B) the National Clinical Mental Health Counseling Examination.

2085 (b) During the 2021 interim, the division shall report to the Occupational and
2086 Professional Licensure Review Committee created in Section 36-23-102 on:

2087 (i) the number of applicants who applied for licensure under this Subsection (3);

2088 (ii) the number of applicants who were approved for licensure under this Subsection
2089 (3);

2090 (iii) any changes to division rule after May 12, 2020, regarding the qualifications for
2091 licensure under this section; and

2092 (iv) recommendations for legislation or other action that the division considers
2093 necessary to carry out the provisions of this Subsection (3).

2094 Section 26. Section 59-2-1101 (Effective 01/01/21) is amended to read:

2095 **59-2-1101 (Effective 01/01/21). Definitions -- Exemption of certain property --**
2096 **Proportional payments for certain property -- Exception -- County legislative body**
2097 **authority to adopt rules or ordinances.**

2098 (1) As used in this section:

2099 (a) "Charitable purposes" means:

2100 (i) for property used as a nonprofit hospital or a nursing home, the standards outlined in
2101 Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah
2102 1994); and

2103 (ii) for property other than property described in Subsection (1)(a)(i), providing a gift
2104 to the community.

- 2105 (b) (i) "Educational purposes" means purposes carried on by an educational
2106 organization that normally:
- 2107 (A) maintains a regular faculty and curriculum; and
 - 2108 (B) has a regularly enrolled body of pupils and students.
- 2109 (ii) "Educational purposes" includes:
- 2110 (A) the physical or mental teaching, training, or conditioning of competitive athletes by
2111 a national governing body of sport recognized by the United States Olympic Committee that
2112 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and
 - 2113 (B) an activity in support of or incidental to the teaching, training, or conditioning
2114 described in Subsection (1)(b)(ii).
- 2115 (c) "Exclusive use exemption" means a property tax exemption under Subsection
2116 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the
2117 following purposes:
- 2118 (i) religious purposes;
 - 2119 (ii) charitable purposes; or
 - 2120 (iii) educational purposes.
- 2121 (d) (i) "Farm machinery and equipment" means tractors, milking equipment and
2122 storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters,
2123 choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying
2124 equipment, including balers and cubers, and any other machinery or equipment used primarily
2125 for agricultural purposes.
- 2126 (ii) "Farm machinery and equipment" does not include vehicles required to be
2127 registered with the Motor Vehicle Division or vehicles or other equipment used for business
2128 purposes other than farming.
- 2129 (e) "Gift to the community" means:
- 2130 (i) the lessening of a government burden; or
 - 2131 (ii) (A) the provision of a significant service to others without immediate expectation
2132 of material reward;
 - 2133 (B) the use of the property is supported to a material degree by donations and gifts
2134 including volunteer service;
 - 2135 (C) the recipients of the charitable activities provided on the property are not required

2136 to pay for the assistance received, in whole or in part, except that if in part, to a material
2137 degree;

2138 (D) the beneficiaries of the charitable activities provided on the property are
2139 unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable
2140 objectives of the nonprofit entity that owns the property; and

2141 (E) any commercial activities provided on the property are subordinate or incidental to
2142 charitable activities provided on the property.

2143 (f) "Government exemption" means a property tax exemption provided under
2144 Subsection (3)(a)(i), (ii), or (iii).

2145 (g) (i) "Nonprofit entity" means an entity:

2146 (A) that is organized on a nonprofit basis, that dedicates the entity's property to the
2147 entity's nonprofit purpose, and that makes no dividend or other form of financial benefit
2148 available to a private interest;

2149 (B) for which, upon dissolution, the entity's assets are distributable only for exempt
2150 purposes under state law or to the government for a public purpose;

2151 (C) that does not receive income from any source, including gifts, donations, or
2152 payments from recipients of products or services, that produces a profit to the entity in the
2153 sense that the income exceeds operating and long-term maintenance expenses; and

2154 (D) for which none of the net earnings or donations made to the entity inure to the
2155 benefit of private shareholders or other individuals, as the private inurement standard has been
2156 interpreted under Section 501(c)(3), Internal Revenue Code.

2157 (ii) "Nonprofit entity" includes an entity:

2158 [~~(A) if the entity is:~~

2159 [~~(F)~~ (A) if the entity is treated as a disregarded entity for federal income tax purposes[;

2160 ~~and (H)]~~ and wholly owned by, and controlled under the direction of, a nonprofit entity; and

2161 (B) for which none of the net earnings and profits of the entity inure to the benefit of
2162 any person other than a nonprofit entity.

2163 (h) "Tax relief" means an exemption, deferral, or abatement that is authorized by this
2164 part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

2165 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if
2166 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

2167 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional
2168 tax based upon the length of time that the property was not owned by the claimant if:

2169 (i) the claimant is a federal, state, or political subdivision entity described in
2170 Subsection (3)(a)(i), (ii), or (iii); or

2171 (ii) pursuant to Subsection (3)(a)(iv):

2172 (A) the claimant is a nonprofit entity; and

2173 (B) the property is used exclusively for religious, charitable, or educational purposes.

2174 (c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed

2175 Forces Exemptions.

2176 (3) (a) The following property is exempt from taxation:

2177 (i) property exempt under the laws of the United States;

2178 (ii) property of:

2179 (A) the state;

2180 (B) school districts; and

2181 (C) public libraries;

2182 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

2183 (A) counties;

2184 (B) cities;

2185 (C) towns;

2186 (D) local districts;

2187 (E) special service districts; and

2188 (F) all other political subdivisions of the state;

2189 (iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity

2190 used exclusively for one or more of the following purposes:

2191 (A) religious purposes;

2192 (B) charitable purposes; or

2193 (C) educational purposes;

2194 (v) places of burial not held or used for private or corporate benefit;

2195 (vi) farm machinery and equipment;

2196 (vii) a high tunnel, as defined in Section [10-9a-525](#);

2197 (viii) intangible property; and

2198 (ix) the ownership interest of an out-of-state public agency, as defined in Section
2199 11-13-103:

2200 (A) if that ownership interest is in property providing additional project capacity, as
2201 defined in Section 11-13-103; and

2202 (B) on which a fee in lieu of ad valorem property tax is payable under Section
2203 11-13-302.

2204 (b) For purposes of a property tax exemption for property of school districts under
2205 Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is
2206 considered to be a school district.

2207 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
2208 a government exemption ceases to qualify for the exemption because of a change in the
2209 ownership of the property:

2210 (a) the new owner of the property shall pay a proportional tax based upon the period of
2211 time:

2212 (i) beginning on the day that the new owner acquired the property; and
2213 (ii) ending on the last day of the calendar year during which the new owner acquired
2214 the property; and

2215 (b) the new owner of the property and the person from whom the new owner acquires
2216 the property shall notify the county assessor, in writing, of the change in ownership of the
2217 property within 30 days from the day that the new owner acquires the property.

2218 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
2219 (4)(a):

2220 (a) is subject to any exclusive use exemption or government exemption that the
2221 property is entitled to under the new ownership of the property; and
2222 (b) applies only to property that is acquired after December 31, 2005.

2223 (6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

2224 (i) the nonprofit entity that owns the property participates in or intervenes in any
2225 political campaign on behalf of or in opposition to any candidate for public office, including
2226 the publishing or distribution of statements; or

2227 (ii) a substantial part of the activities of the nonprofit entity that owns the property
2228 consists of carrying on propaganda or otherwise attempting to influence legislation, except as

2229 provided under Subsection 501(h), Internal Revenue Code.

2230 (b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a)
2231 shall be determined using the standards described in Section 501, Internal Revenue Code.

2232 (7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

2233 (a) the property is used for a purpose that is not religious, charitable, or educational;
2234 and

2235 (b) the use for a purpose that is not religious, charitable, or educational is more than de
2236 minimis.

2237 (8) A county legislative body may adopt rules or ordinances to:

2238 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation
2239 provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces
2240 Exemptions; and

2241 (b) designate one or more persons to perform the functions given the county under this
2242 part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

2243 (9) If a person is dissatisfied with a tax relief decision made under designated
2244 decision-making authority as described in Subsection (8)(b), that person may appeal the
2245 decision to the commission under Section [59-2-1006](#).

2246 Section 27. Section **63G-2-302** is amended to read:

2247 **63G-2-302. Private records.**

2248 (1) The following records are private:

2249 (a) records concerning an individual's eligibility for unemployment insurance benefits,
2250 social services, welfare benefits, or the determination of benefit levels;

2251 (b) records containing data on individuals describing medical history, diagnosis,
2252 condition, treatment, evaluation, or similar medical data;

2253 (c) records of publicly funded libraries that when examined alone or with other records
2254 identify a patron;

2255 (d) records received by or generated by or for:

2256 (i) the Independent Legislative Ethics Commission, except for:

2257 (A) the commission's summary data report that is required under legislative rule; and

2258 (B) any other document that is classified as public under legislative rule; or

2259 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,

2260 unless the record is classified as public under legislative rule;

2261 (e) records received by, or generated by or for, the Independent Executive Branch

2262 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review

2263 of Executive Branch Ethics Complaints;

2264 (f) records received or generated for a Senate confirmation committee concerning

2265 character, professional competence, or physical or mental health of an individual:

2266 (i) if, prior to the meeting, the chair of the committee determines release of the records:

2267 (A) reasonably could be expected to interfere with the investigation undertaken by the

2268 committee; or

2269 (B) would create a danger of depriving a person of a right to a fair proceeding or

2270 impartial hearing; and

2271 (ii) after the meeting, if the meeting was closed to the public;

2272 (g) employment records concerning a current or former employee of, or applicant for

2273 employment with, a governmental entity that would disclose that individual's home address,

2274 home telephone number, social security number, insurance coverage, marital status, or payroll

2275 deductions;

2276 (h) records or parts of records under Section [63G-2-303](#) that a current or former

2277 employee identifies as private according to the requirements of that section;

2278 (i) that part of a record indicating a person's social security number or federal employer

2279 identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#),

2280 [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);

2281 (j) that part of a voter registration record identifying a voter's:

2282 (i) driver license or identification card number;

2283 (ii) social security number, or last four digits of the social security number;

2284 (iii) email address; or

2285 (iv) date of birth;

2286 (k) a voter registration record that is classified as a private record by the lieutenant

2287 governor or a county clerk under Subsection [20A-2-101.1\(5\)\(a\)](#), [20A-2-104\(4\)\(h\)](#), or

2288 [20A-2-204\(4\)\(b\)](#);

2289 (l) a voter registration record that is withheld under Subsection [20A-2-104\(7\)](#);

2290 (m) a withholding request form described in Subsections [20A-2-104\(7\)](#) and (8) and any

2291 verification submitted in support of the form;

2292 (n) a record that:

2293 (i) contains information about an individual;

2294 (ii) is voluntarily provided by the individual; and

2295 (iii) goes into an electronic database that:

2296 (A) is designated by and administered under the authority of the Chief Information

2297 Officer; and

2298 (B) acts as a repository of information about the individual that can be electronically

2299 retrieved and used to facilitate the individual's online interaction with a state agency;

2300 (o) information provided to the Commissioner of Insurance under:

2301 (i) Subsection 31A-23a-115(3)(a);

2302 (ii) Subsection 31A-23a-302(4); or

2303 (iii) Subsection 31A-26-210(4);

2304 (p) information obtained through a criminal background check under Title 11, Chapter

2305 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

2306 (q) information provided by an offender that is:

2307 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap

2308 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

2309 (ii) not required to be made available to the public under Subsection 77-41-110(4) or

2310 77-43-108(4);

2311 (r) a statement and any supporting documentation filed with the attorney general in

2312 accordance with Section 34-45-107, if the federal law or action supporting the filing involves

2313 homeland security;

2314 (s) electronic toll collection customer account information received or collected under

2315 Section 72-6-118 and customer information described in Section 17B-2a-815 received or

2316 collected by a public transit district, including contact and payment information and customer

2317 travel data;

2318 (t) an email address provided by a military or overseas voter under Section

2319 20A-16-501;

2320 (u) a completed military-overseas ballot that is electronically transmitted under Title

2321 20A, Chapter 16, Uniform Military and Overseas Voters Act;

- 2322 (v) records received by or generated by or for the Political Subdivisions Ethics Review
2323 Commission established in Section 63A-15-201, except for:
- 2324 (i) the commission's summary data report that is required in Section 63A-15-202; and
2325 (ii) any other document that is classified as public in accordance with Title 63A,
2326 Chapter 15, Political Subdivisions Ethics Review Commission;
- 2327 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of
2328 an incident or threat;
- 2329 (x) a criminal background check or credit history report conducted in accordance with
2330 Section 63A-3-201;
- 2331 (y) a record described in Subsection 53-5a-104(7);
- 2332 (z) the following portions of a record maintained by a county for the purpose of
2333 administering property taxes, an individual's:
- 2334 (i) email address;
2335 (ii) phone number; or
2336 (iii) personal financial information related to a person's payment method; and
2337 (aa) a record concerning an individual's eligibility for an exemption, deferral,
2338 abatement, or relief under:
- 2339 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;
2340 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
2341 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
2342 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions.
- 2343 (2) The following records are private if properly classified by a governmental entity:
2344 (a) records concerning a current or former employee of, or applicant for employment
2345 with a governmental entity, including performance evaluations and personal status information
2346 such as race, religion, or disabilities, but not including records that are public under Subsection
2347 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
- 2348 (b) records describing an individual's finances, except that the following are public:
2349 (i) records described in Subsection 63G-2-301(2);
2350 (ii) information provided to the governmental entity for the purpose of complying with
2351 a financial assurance requirement; or
2352 (iii) records that must be disclosed in accordance with another statute;

- 2353 (c) records of independent state agencies if the disclosure of those records would
2354 conflict with the fiduciary obligations of the agency;
- 2355 (d) other records containing data on individuals the disclosure of which constitutes a
2356 clearly unwarranted invasion of personal privacy;
- 2357 (e) records provided by the United States or by a government entity outside the state
2358 that are given with the requirement that the records be managed as private records, if the
2359 providing entity states in writing that the record would not be subject to public disclosure if
2360 retained by it;
- 2361 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
2362 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
2363 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and
- 2364 (g) audio and video recordings created by a body-worn camera, as defined in Section
2365 77-7a-103, that record sound or images inside a home or residence except for recordings that:
- 2366 (i) depict the commission of an alleged crime;
- 2367 (ii) record any encounter between a law enforcement officer and a person that results in
2368 death or bodily injury, or includes an instance when an officer fires a weapon;
- 2369 (iii) record any encounter that is the subject of a complaint or a legal proceeding
2370 against a law enforcement officer or law enforcement agency;
- 2371 (iv) contain an officer involved critical incident as defined in Subsection
2372 76-2-408(1)(f); or
- 2373 (v) have been requested for reclassification as a public record by a subject or
2374 authorized agent of a subject featured in the recording.
- 2375 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
2376 records, statements, history, diagnosis, condition, treatment, and evaluation.
- 2377 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
2378 doctors, or affiliated entities are not private records or controlled records under Section
2379 63G-2-304 when the records are sought:
- 2380 (i) in connection with any legal or administrative proceeding in which the patient's
2381 physical, mental, or emotional condition is an element of any claim or defense; or
- 2382 (ii) after a patient's death, in any legal or administrative proceeding in which any party
2383 relies upon the condition as an element of the claim or defense.

2384 (c) Medical records are subject to production in a legal or administrative proceeding
2385 according to state or federal statutes or rules of procedure and evidence as if the medical
2386 records were in the possession of a nongovernmental medical care provider.

2387 Section 28. Section **63G-7-701** is amended to read:

2388 **63G-7-701. Payment of claim or judgment against state -- Presentment for**
2389 **payment.**

2390 (1) Each claim[~~, as defined by Subsection 63G-7-102(1),~~] that is approved by the state
2391 or any final judgment obtained against the state shall be presented for payment to:

2392 (a) the state risk manager; or

2393 (b) the office, agency, institution, or other instrumentality involved, if payment by that
2394 instrumentality is otherwise permitted by law.

2395 (2) If payment of the claim is not authorized by law, the judgment or claim shall be
2396 presented to the board of examiners for action as provided in Section **63G-9-301**.

2397 (3) If a judgment against the state is reduced by the operation of Section **63G-7-604**,
2398 the claimant may submit the excess claim to the board of examiners.

2399 Section 29. Section **63I-2-215** is amended to read:

2400 **63I-2-215. Repeal dates -- Title 15A.**

2401 [~~Subsection 15A-1-203(13), which addresses mass timber products, is repealed~~
2402 ~~December 31, 2019.~~]

2403 Section 30. Section **63J-1-602.1 (Effective 10/15/20)** is amended to read:

2404 **63J-1-602.1 (Effective 10/15/20). List of nonlapsing appropriations from accounts**
2405 **and funds.**

2406 Appropriations made from the following accounts or funds are nonlapsing:

2407 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
2408 and Leadership Restricted Account created in Section **4-42-102**.

2409 (2) The Native American Repatriation Restricted Account created in Section **9-9-407**.

2410 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
2411 Section **9-18-102**.

2412 (4) The National Professional Men's Soccer Team Support of Building Communities
2413 Restricted Account created in Section **9-19-102**.

2414 (5) Funds collected for directing and administering the C-PACE district created in

- 2415 Section [~~11-42a-302~~] [11-42a-106](#).
- 2416 (6) Money received by the Utah Inland Port Authority, as provided in Section
- 2417 [11-58-105](#).
- 2418 (7) The "Latino Community Support Restricted Account" created in Section [13-1-16](#).
- 2419 (8) The Clean Air Support Restricted Account created in Section [19-1-109](#).
- 2420 (9) The "Support for State-Owned Shooting Ranges Restricted Account" created in
- 2421 Section [23-14-13.5](#).
- 2422 (10) Award money under the State Asset Forfeiture Grant Program, as provided under
- 2423 Section [24-4-117](#).
- 2424 (11) Funds collected from the program fund for local health department expenses
- 2425 incurred in responding to a local health emergency under Section [26-1-38](#).
- 2426 (12) The Children with Cancer Support Restricted Account created in Section
- 2427 [26-21a-304](#).
- 2428 (13) State funds for matching federal funds in the Children's Health Insurance Program
- 2429 as provided in Section [26-40-108](#).
- 2430 (14) The Children with Heart Disease Support Restricted Account created in Section
- 2431 [26-58-102](#).
- 2432 (15) The Nurse Home Visiting Restricted Account created in Section [26-63-601](#).
- 2433 (16) The Technology Development Restricted Account created in Section [31A-3-104](#).
- 2434 (17) The Criminal Background Check Restricted Account created in Section
- 2435 [31A-3-105](#).
- 2436 (18) The Captive Insurance Restricted Account created in Section [31A-3-304](#), except
- 2437 to the extent that Section [31A-3-304](#) makes the money received under that section free revenue.
- 2438 (19) The Title Licensee Enforcement Restricted Account created in Section
- 2439 [31A-23a-415](#).
- 2440 (20) The Health Insurance Actuarial Review Restricted Account created in Section
- 2441 [31A-30-115](#).
- 2442 (21) The Insurance Fraud Investigation Restricted Account created in Section
- 2443 [31A-31-108](#).
- 2444 (22) The Underage Drinking Prevention Media and Education Campaign Restricted
- 2445 Account created in Section [32B-2-306](#).

- 2446 (23) The School Readiness Restricted Account created in Section [35A-15-203](#).
- 2447 (24) Money received by the Utah State Office of Rehabilitation for the sale of certain
2448 products or services, as provided in Section [35A-13-202](#).
- 2449 (25) The Oil and Gas Administrative Penalties Account created in Section [40-6-11](#).
- 2450 (26) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).
- 2451 (27) The Electronic Payment Fee Restricted Account created by Section [41-1a-121](#) to
2452 the Motor Vehicle Division.
- 2453 (28) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
2454 created by Section [41-3-110](#) to the State Tax Commission.
- 2455 (29) The Utah Law Enforcement Memorial Support Restricted Account created in
2456 Section [53-1-120](#).
- 2457 (30) The State Disaster Recovery Restricted Account to the Division of Emergency
2458 Management, as provided in Section [53-2a-603](#).
- 2459 (31) The Department of Public Safety Restricted Account to the Department of Public
2460 Safety, as provided in Section [53-3-106](#).
- 2461 (32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
2462 [53-8-303](#).
- 2463 (33) The DNA Specimen Restricted Account created in Section [53-10-407](#).
- 2464 (34) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 2465 (35) The Technical Colleges Capital Projects Fund created in Section [53B-2a-118](#).
- 2466 (36) The Higher Education Capital Projects Fund created in Section [53B-22-202](#).
- 2467 (37) A certain portion of money collected for administrative costs under the School
2468 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 2469 (38) The Public Utility Regulatory Restricted Account created in Section [54-5-1.5](#),
2470 subject to Subsection [54-5-1.5\(4\)\(d\)](#).
- 2471 (39) Funds collected from a surcharge fee to provide certain licensees with access to an
2472 electronic reference library, as provided in Section [58-3a-105](#).
- 2473 (40) Certain fines collected by the Division of Occupational and Professional Licensing
2474 for violation of unlawful or unprofessional conduct that are used for education and enforcement
2475 purposes, as provided in Section [58-17b-505](#).
- 2476 (41) Funds collected from a surcharge fee to provide certain licensees with access to an

- 2477 electronic reference library, as provided in Section [58-22-104](#).
- 2478 (42) Funds collected from a surcharge fee to provide certain licensees with access to an
2479 electronic reference library, as provided in Section [58-55-106](#).
- 2480 (43) Funds collected from a surcharge fee to provide certain licensees with access to an
2481 electronic reference library, as provided in Section [58-56-3.5](#).
- 2482 (44) Certain fines collected by the Division of Occupational and Professional Licensing
2483 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
2484 Section [58-63-103](#).
- 2485 (45) The Relative Value Study Restricted Account created in Section [59-9-105](#).
- 2486 (46) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
- 2487 (47) Funds paid to the Division of Real Estate for the cost of a criminal background
2488 check for a mortgage loan license, as provided in Section [61-2c-202](#).
- 2489 (48) Funds paid to the Division of Real Estate for the cost of a criminal background
2490 check for principal broker, associate broker, and sales agent licenses, as provided in Section
2491 [61-2f-204](#).
- 2492 (49) Certain funds donated to the Department of Human Services, as provided in
2493 Section [62A-1-111](#).
- 2494 (50) The National Professional Men's Basketball Team Support of Women and
2495 Children Issues Restricted Account created in Section [62A-1-202](#).
- 2496 (51) Certain funds donated to the Division of Child and Family Services, as provided
2497 in Section [62A-4a-110](#).
- 2498 (52) The Choose Life Adoption Support Restricted Account created in Section
2499 [62A-4a-608](#).
- 2500 (53) Funds collected by the Office of Administrative Rules for publishing, as provided
2501 in Section [63G-3-402](#).
- 2502 (54) The Immigration Act Restricted Account created in Section [63G-12-103](#).
- 2503 (55) Money received by the military installation development authority, as provided in
2504 Section [63H-1-504](#).
- 2505 (56) The Computer Aided Dispatch Restricted Account created in Section [63H-7a-303](#).
- 2506 (57) The Unified Statewide 911 Emergency Service Account created in Section
2507 [63H-7a-304](#).

- 2508 (58) The Utah Statewide Radio System Restricted Account created in Section
2509 [63H-7a-403](#).
- 2510 (59) The Employability to Careers Program Restricted Account created in Section
2511 [63J-4-703](#).
- 2512 (60) The Motion Picture Incentive Account created in Section [63N-8-103](#).
- 2513 (61) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,
2514 as provided under Section [63N-10-301](#).
- 2515 (62) Funds collected by the housing of state probationary inmates or state parole
2516 inmates, as provided in Subsection [64-13e-104\(2\)](#).
- 2517 (63) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
2518 and State Lands, as provided in Section [65A-8-103](#).
- 2519 (64) The Transportation of Veterans to Memorials Support Restricted Account created
2520 in Section [71-14-102](#).
- 2521 (65) The Amusement Ride Safety Restricted Account, as provided in Section
2522 [72-16-204](#).
- 2523 (66) Certain funds received by the Office of the State Engineer for well drilling fines or
2524 bonds, as provided in Section [73-3-25](#).
- 2525 (67) The Water Resources Conservation and Development Fund, as provided in
2526 Section [73-23-2](#).
- 2527 (68) Funds donated or paid to a juvenile court by private sources, as provided in
2528 Subsection [78A-6-203\(1\)\(c\)](#).
- 2529 (69) Fees for certificate of admission created under Section [78A-9-102](#).
- 2530 (70) Funds collected for adoption document access as provided in Sections [78B-6-141](#),
2531 [78B-6-144](#), and [78B-6-144.5](#).
- 2532 (71) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,
2533 Utah Indigent Defense Commission.
- 2534 (72) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
2535 Park, Jordan River State Park, and Green River State Park, as provided under Section
2536 [79-4-403](#).
- 2537 (73) Certain funds received by the Division of Parks and Recreation from the sale or
2538 disposal of buffalo, as provided under Section [79-4-1001](#).

- 2539 (74) The Drinking While Pregnant Prevention Media and Education Campaign
2540 Restricted Account created in Section [32B-2-308](#).
- 2541 Section 31. Section **63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20)** is amended to
2542 read:
- 2543 **63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20). List of nonlapsing appropriations**
2544 **from accounts and funds.**
- 2545 Appropriations made from the following accounts or funds are nonlapsing:
- 2546 (1) The Utah Intracurricular Student Organization Support for Agricultural Education
2547 and Leadership Restricted Account created in Section [4-42-102](#).
- 2548 (2) The Native American Repatriation Restricted Account created in Section [9-9-407](#).
- 2549 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
2550 Section [9-18-102](#).
- 2551 (4) The National Professional Men's Soccer Team Support of Building Communities
2552 Restricted Account created in Section [9-19-102](#).
- 2553 (5) Funds collected for directing and administering the C-PACE district created in
2554 Section [~~11-42a-302~~] [11-42a-106](#).
- 2555 (6) Money received by the Utah Inland Port Authority, as provided in Section
2556 [11-58-105](#).
- 2557 (7) The "Support for State-Owned Shooting Ranges Restricted Account" created in
2558 Section [23-14-13.5](#).
- 2559 (8) Award money under the State Asset Forfeiture Grant Program, as provided under
2560 Section [24-4-117](#).
- 2561 (9) Funds collected from the program fund for local health department expenses
2562 incurred in responding to a local health emergency under Section [26-1-38](#).
- 2563 (10) The Children with Cancer Support Restricted Account created in Section
2564 [26-21a-304](#).
- 2565 (11) State funds for matching federal funds in the Children's Health Insurance Program
2566 as provided in Section [26-40-108](#).
- 2567 (12) The Children with Heart Disease Support Restricted Account created in Section
2568 [26-58-102](#).
- 2569 (13) The Nurse Home Visiting Restricted Account created in Section [26-63-601](#).

- 2570 (14) The Technology Development Restricted Account created in Section [31A-3-104](#).
- 2571 (15) The Criminal Background Check Restricted Account created in Section
- 2572 [31A-3-105](#).
- 2573 (16) The Captive Insurance Restricted Account created in Section [31A-3-304](#), except
- 2574 to the extent that Section [31A-3-304](#) makes the money received under that section free revenue.
- 2575 (17) The Title Licensee Enforcement Restricted Account created in Section
- 2576 [31A-23a-415](#).
- 2577 (18) The Health Insurance Actuarial Review Restricted Account created in Section
- 2578 [31A-30-115](#).
- 2579 (19) The Insurance Fraud Investigation Restricted Account created in Section
- 2580 [31A-31-108](#).
- 2581 (20) The Underage Drinking Prevention Media and Education Campaign Restricted
- 2582 Account created in Section [32B-2-306](#).
- 2583 (21) The School Readiness Restricted Account created in Section [35A-15-203](#).
- 2584 (22) Money received by the Utah State Office of Rehabilitation for the sale of certain
- 2585 products or services, as provided in Section [35A-13-202](#).
- 2586 (23) The Oil and Gas Administrative Penalties Account created in Section [40-6-11](#).
- 2587 (24) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).
- 2588 (25) The Electronic Payment Fee Restricted Account created by Section [41-1a-121](#) to
- 2589 the Motor Vehicle Division.
- 2590 (26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
- 2591 created by Section [41-3-110](#) to the State Tax Commission.
- 2592 (27) The Utah Law Enforcement Memorial Support Restricted Account created in
- 2593 Section [53-1-120](#).
- 2594 (28) The State Disaster Recovery Restricted Account to the Division of Emergency
- 2595 Management, as provided in Section [53-2a-603](#).
- 2596 (29) The Department of Public Safety Restricted Account to the Department of Public
- 2597 Safety, as provided in Section [53-3-106](#).
- 2598 (30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
- 2599 [53-8-303](#).
- 2600 (31) The DNA Specimen Restricted Account created in Section [53-10-407](#).

- 2601 (32) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 2602 (33) The Technical Colleges Capital Projects Fund created in Section [53B-2a-118](#).
- 2603 (34) The Higher Education Capital Projects Fund created in Section [53B-22-202](#).
- 2604 (35) A certain portion of money collected for administrative costs under the School
- 2605 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 2606 (36) The Public Utility Regulatory Restricted Account created in Section [54-5-1.5](#),
- 2607 subject to Subsection [54-5-1.5\(4\)\(d\)](#).
- 2608 (37) Funds collected from a surcharge fee to provide certain licensees with access to an
- 2609 electronic reference library, as provided in Section [58-3a-105](#).
- 2610 (38) Certain fines collected by the Division of Occupational and Professional Licensing
- 2611 for violation of unlawful or unprofessional conduct that are used for education and enforcement
- 2612 purposes, as provided in Section [58-17b-505](#).
- 2613 (39) Funds collected from a surcharge fee to provide certain licensees with access to an
- 2614 electronic reference library, as provided in Section [58-22-104](#).
- 2615 (40) Funds collected from a surcharge fee to provide certain licensees with access to an
- 2616 electronic reference library, as provided in Section [58-55-106](#).
- 2617 (41) Funds collected from a surcharge fee to provide certain licensees with access to an
- 2618 electronic reference library, as provided in Section [58-56-3.5](#).
- 2619 (42) Certain fines collected by the Division of Occupational and Professional Licensing
- 2620 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
- 2621 Section [58-63-103](#).
- 2622 (43) The Relative Value Study Restricted Account created in Section [59-9-105](#).
- 2623 (44) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
- 2624 (45) Funds paid to the Division of Real Estate for the cost of a criminal background
- 2625 check for a mortgage loan license, as provided in Section [61-2c-202](#).
- 2626 (46) Funds paid to the Division of Real Estate for the cost of a criminal background
- 2627 check for principal broker, associate broker, and sales agent licenses, as provided in Section
- 2628 [61-2f-204](#).
- 2629 (47) Certain funds donated to the Department of Human Services, as provided in
- 2630 Section [62A-1-111](#).
- 2631 (48) The National Professional Men's Basketball Team Support of Women and

- 2632 Children Issues Restricted Account created in Section [62A-1-202](#).
- 2633 (49) Certain funds donated to the Division of Child and Family Services, as provided
2634 in Section [62A-4a-110](#).
- 2635 (50) The Choose Life Adoption Support Restricted Account created in Section
2636 [62A-4a-608](#).
- 2637 (51) Funds collected by the Office of Administrative Rules for publishing, as provided
2638 in Section [63G-3-402](#).
- 2639 (52) The Immigration Act Restricted Account created in Section [63G-12-103](#).
- 2640 (53) Money received by the military installation development authority, as provided in
2641 Section [63H-1-504](#).
- 2642 (54) The Computer Aided Dispatch Restricted Account created in Section [63H-7a-303](#).
- 2643 (55) The Unified Statewide 911 Emergency Service Account created in Section
2644 [63H-7a-304](#).
- 2645 (56) The Utah Statewide Radio System Restricted Account created in Section
2646 [63H-7a-403](#).
- 2647 (57) The Employability to Careers Program Restricted Account created in Section
2648 [63J-4-703](#).
- 2649 (58) The Motion Picture Incentive Account created in Section [63N-8-103](#).
- 2650 (59) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,
2651 as provided under Section [63N-10-301](#).
- 2652 (60) Funds collected by the housing of state probationary inmates or state parole
2653 inmates, as provided in Subsection [64-13e-104\(2\)](#).
- 2654 (61) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
2655 and State Lands, as provided in Section [65A-8-103](#).
- 2656 (62) The Transportation of Veterans to Memorials Support Restricted Account created
2657 in Section [71-14-102](#).
- 2658 (63) The Amusement Ride Safety Restricted Account, as provided in Section
2659 [72-16-204](#).
- 2660 (64) Certain funds received by the Office of the State Engineer for well drilling fines or
2661 bonds, as provided in Section [73-3-25](#).
- 2662 (65) The Water Resources Conservation and Development Fund, as provided in

2663 Section 73-23-2.

2664 (66) Funds donated or paid to a juvenile court by private sources, as provided in

2665 Subsection 78A-6-203(1)(c).

2666 (67) Fees for certificate of admission created under Section 78A-9-102.

2667 (68) Funds collected for adoption document access as provided in Sections 78B-6-141,
2668 78B-6-144, and 78B-6-144.5.

2669 (69) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,
2670 Utah Indigent Defense Commission.

2671 (70) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
2672 Park, Jordan River State Park, and Green River State Park, as provided under Section
2673 79-4-403.

2674 (71) Certain funds received by the Division of Parks and Recreation from the sale or
2675 disposal of buffalo, as provided under Section 79-4-1001.

2676 (72) The Drinking While Pregnant Prevention Media and Education Campaign
2677 Restricted Account created in Section 32B-2-308.

2678 Section 32. Section 72-10-205.5 is amended to read:

2679 **72-10-205.5. Abandoned aircraft on airport property -- Seizure and disposal.**

2680 (1) (a) As used in this section, "abandoned aircraft" means an aircraft that:

2681 (i) remains in an idle state on airport property for 45 consecutive calendar days;

2682 (ii) is in a wrecked, inoperative, derelict, or partially dismantled condition; and

2683 (iii) is not in the process of actively being repaired.

2684 (b) "Abandoned aircraft" does not include an aircraft:

2685 (i) that has current FAA registration;

2686 (ii) that has current state registration; or

2687 (iii) for which evidence is shown indicating repairs are in process, including:

2688 (A) receipts for parts and labor; or

2689 (B) a statement from a mechanic making the repairs.

2690 (2) An airport operator may take possession and dispose of an abandoned aircraft in
2691 accordance with Subsections (3) through (5).

2692 (3) Upon determining that an aircraft located on airport property is abandoned, the
2693 airport operator shall:

2694 (a) send, by registered mail, a notice containing the information described in
2695 Subsection (4) to the last known address of the last registered owner of the aircraft; and

2696 (b) publish a notice containing the information described in Subsection (4) in a
2697 newspaper of general circulation in the county where the airport is located if:

2698 (i) the owner or the address of the owner of the aircraft is unknown; or

2699 (ii) the mailed notice is returned to the airport operator without a forwarding address.

2700 (4) The notice described in Subsection (3) shall include:

2701 (a) the name, if known, and the last known address, if any, of the last registered owner
2702 of the aircraft;

2703 (b) a description of the aircraft, including the identification number, the location of the
2704 aircraft, and the date the aircraft is determined abandoned;

2705 (c) a statement describing the specific grounds for the determination that the aircraft is
2706 abandoned;

2707 (d) the amount of any accrued or unpaid airport charges; and

2708 (e) a statement indicating that the airport operator intends to take possession and
2709 dispose of the aircraft if the owner of the aircraft fails to remove the aircraft from airport
2710 property, after payment in full of any charges described in Subsection (4)(d), within the later
2711 of:

2712 (i) 30 days after the day on which the notice is sent in accordance with Subsection
2713 (3)(a); or

2714 (ii) 30 days after the day on which the notice is published in accordance with
2715 Subsection (3)(b), if applicable.

2716 (5) If the owner of the abandoned aircraft fails to remove the aircraft from airport
2717 property, after payment in full of any charges described in Subsection (4)(d), within the time
2718 specified in Subsection (4)(e):

2719 (a) the abandoned aircraft becomes the property of the airport operator; and

2720 (b) the airport operator may dispose of the abandoned aircraft:

2721 (i) in the manner provided in Title 63A, Chapter 2, Part 4, Surplus Property Service; or

2722 (ii) in accordance with any other lawful method or procedure established by rule or
2723 ordinance adopted by the airport operator.

2724 (6) If an airport operator complies with the provisions of this section, the airport

2725 operator is immune from liability for the seizure and disposal of an abandoned aircraft in
2726 accordance with this section.

2727 Section 33. Section **73-10g-202** is amended to read:

2728 **73-10g-202. Agricultural Water Optimization Task Force.**

2729 (1) There is created the Agricultural Water Optimization Task Force, consisting of:

2730 (a) the following voting members:

2731 (i) one individual representing the Department of Agriculture and Food;

2732 (ii) one individual representing the board or division;

2733 (iii) one individual representing the Division of Water Rights;

2734 (iv) one individual representing the Division of Water Quality;

2735 (v) one individual representing the interests of the agriculture industry;

2736 (vi) one individual representing environmental interests;

2737 (vii) one individual representing water conservancy districts; and

2738 (viii) three individuals whose primary source of income comes from the production of
2739 agricultural commodities; and

2740 (b) one nonvoting member from the higher education community with a background in
2741 research.

2742 (2) (a) The commissioner of the Department of Agriculture and Food shall appoint the
2743 members described in Subsections (1)(a)(i), (v), (vii), and (viii).

2744 (b) The executive director of the Department of Natural Resources shall appoint the
2745 members described in Subsections (1)(a)(ii), (iii), and (vi).

2746 (c) The governor shall appoint the members described in Subsections (1)(a)(iv) and
2747 (1)(b).

2748 (3) The division shall provide administrative support to the task force.

2749 (4) The task force shall select a chair from among its membership.

2750 (5) Six voting members present constitutes a quorum of the task force. Action by a
2751 majority of voting members when a quorum is present is an action of the task force.

2752 (6) Service on the task force is voluntary and a member may not receive compensation
2753 or benefits for the member's service, but may receive per diem and travel expenses in
2754 accordance with:

2755 (a) Section [63A-3-106](#);

2756 (b) Section 63A-3-107; and
2757 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
2758 63A-3-107.

2759 Section 34. Section 73-31-202 is amended to read:
2760 **73-31-202. Statutory water bank application.**

2761 (1) A record holder, other than the United States or an agency of the United States, of a
2762 perfected water right or a valid diligence claim may request approval for a proposed statutory
2763 water bank if the place of use and point of diversion for the applicant's water right are
2764 encompassed within the proposed service area of the proposed statutory water bank and the
2765 applicant files an application with the board that includes the following:

- 2766 (a) the name of the statutory water bank;
- 2767 (b) the mailing address for the statutory water bank;
- 2768 (c) the type of legal entity recognized under Utah law that constitutes the statutory
2769 water bank;
- 2770 (d) a proposed service area map for the statutory water bank;
- 2771 (e) whether the statutory water bank will accept deposits of surface water rights or
2772 groundwater rights, provided that:
 - 2773 (i) a statutory water bank may not accept deposits of both surface water rights and
2774 groundwater rights; and
 - 2775 (ii) the applicant's perfected water right or valid diligence claim is of the type accepted
2776 by the statutory water bank;
- 2777 (f) a copy of the statutory water bank's governing documents that specify:
 - 2778 (i) the number of members of the governing body, which may not be an even number;
 - 2779 (ii) the qualifications for governing members, including terms and election or
2780 appointment procedures; and
 - 2781 (iii) the initial governing members' names, telephone numbers, and post office
2782 addresses;
- 2783 (g) a confirmation that the applicant satisfies the criteria listed in Subsection (1)(e)(ii);
- 2784 (h) procedures that describe how the statutory water bank will:
 - 2785 (i) determine and fund the water bank's administrative costs;
 - 2786 (ii) design, facilitate, and conduct transactions between borrowers and depositors for

2787 the use of a banked water right; and
2788 (iii) accept, reject, and manage banked water rights, including:
2789 (A) what information a depositor shall provide to inform the statutory water bank, the
2790 state engineer, or any other distributing entity regarding the feasibility of using the water right
2791 within the statutory water bank's designated service area;
2792 (B) how a potential depositor is to work with the statutory water bank to jointly file a
2793 change application seeking authorization from the state engineer to deposit a water right within
2794 the statutory water bank;
2795 (C) conditions for depositing a water right with the statutory water bank;
2796 (D) how payments to depositors are determined; and
2797 (E) under what conditions a depositor may use a water right at the heretofore place of
2798 use pursuant to Subsection 73-31-501(4);
2799 (iv) accept, review, and approve delivery requests, including:
2800 (A) deadlines for submitting a delivery request to the statutory water bank;
2801 (B) a cost or fee associated with submitting a delivery request and how that cost or fee
2802 is to be applied or used by the statutory water bank;
2803 (C) what information a borrower is to include on a delivery request to sufficiently
2804 inform the statutory water bank, state engineer, or another distributing entity whether the
2805 delivery request is feasible within the statutory water bank's designated service area;
2806 (D) any notice and comment procedures for notifying other water users of the delivery
2807 request;
2808 (E) the criteria the statutory water bank will use to evaluate delivery requests;
2809 (F) how the statutory water bank will inform water users who have submitted a
2810 delivery request if the delivery request is approved or denied, the reasons for denial if denied,
2811 and any applicable conditions if approved;
2812 (G) appeal or grievance procedures, if any, for a borrower seeking to challenge a denial
2813 of a delivery request, including identifying who has the burden in an appeal and the standards
2814 of review;
2815 (H) how the statutory water bank will determine prices for the use of loaned water
2816 rights; and
2817 (I) how the statutory water bank will coordinate with the state engineer to facilitate

2818 distribution of approved delivery requests;

2819 (v) how the statutory water bank will ensure that the aggregate amount of loaned water
2820 rights during a calendar year does not exceed the total sum of the banked water rights within
2821 the statutory water bank; and

2822 (vi) how the statutory water bank will resolve complaints regarding the statutory water
2823 bank's operations;

2824 (i) the process that the statutory water bank will follow if the statutory water bank
2825 terminates, dissolves, or if the board revokes the statutory water bank's permission to operate
2826 pursuant to this chapter, including how the statutory water bank will return banked water rights
2827 to depositors and how the ~~[statute]~~ statutory water bank will return any amounts owing to
2828 depositors; and

2829 (j) a signed declaration or affidavit from at least two governing members of the
2830 statutory water bank affirming that:

2831 (i) the information submitted is correct;

2832 (ii) as a condition for permission to operate, the statutory water bank may not
2833 discriminate between the nature of use, depositors, or borrowers;

2834 (iii) the statutory water bank shall comply with the conditions of an approved changed
2835 application for a banked water right; and

2836 (iv) the statutory water bank shall report to the state engineer known violations of
2837 approved change applications.

2838 (2) The board may prepare a form or online application for an applicant to use in
2839 submitting an application to the board under this part.

2840 Section 35. Section **76-7-305** is amended to read:

2841 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**
2842 **-- Exceptions.**

2843 (1) A person may not perform an abortion, unless, before performing the abortion, the
2844 physician who will perform the abortion obtains from the woman on whom the abortion is to
2845 be performed a voluntary and informed written consent that is consistent with:

2846 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,
2847 Current Opinions; and

2848 (b) the provisions of this section.

2849 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and
2850 informed only if, at least 72 hours before the abortion:

2851 (a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse
2852 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
2853 physician's assistant presents the information module to the pregnant woman;

2854 (b) the pregnant woman views the entire information module and presents evidence to
2855 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire
2856 information module;

2857 (c) after receiving the evidence described in Subsection (2)(b), the individual described
2858 in Subsection (2)(a):

2859 (i) documents that the pregnant woman viewed the entire information module;

2860 (ii) gives the pregnant woman, upon her request, a copy of the documentation
2861 described in Subsection (2)(c)(i); and

2862 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician
2863 who is to perform the abortion, upon request of that physician or the pregnant woman;

2864 (d) after the pregnant woman views the entire information module, the physician who
2865 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse
2866 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or
2867 physician's assistant, in a face-to-face consultation in any location in the state, orally informs
2868 the woman of:

2869 (i) the nature of the proposed abortion procedure;

2870 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the
2871 fetus;

2872 (iii) the risks and alternatives to the abortion procedure or treatment;

2873 (iv) the options and consequences of aborting a medication-induced abortion, if the
2874 proposed abortion procedure is a medication-induced abortion;

2875 (v) the probable gestational age and a description of the development of the unborn
2876 child at the time the abortion would be performed;

2877 (vi) the medical risks associated with carrying her child to term;

2878 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant
2879 woman, upon her request; and

2880 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn
2881 child has or may have Down syndrome, the Department of Health website containing the
2882 information described in Section 26-10-14, including the information on the informational
2883 support sheet; and

2884 (e) after the pregnant woman views the entire information module, a staff member of
2885 the abortion clinic or hospital provides to the pregnant woman:

2886 (i) on a document that the pregnant woman may take home:

2887 (A) the address for the department's website described in Section 76-7-305.5; and

2888 (B) a statement that the woman may request, from a staff member of the abortion clinic
2889 or hospital where the woman viewed the information module, a printed copy of the material on
2890 the department's website;

2891 (ii) a printed copy of the material on the department's website described in Section
2892 76-7-305.5, if requested by the pregnant woman; and

2893 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the
2894 disposition of the aborted fetus.

2895 (3) Before performing an abortion, the physician who is to perform the abortion shall:

2896 (a) in a face-to-face consultation, provide the information described in Subsection
2897 (2)(d), unless the attending physician or referring physician is the individual who provided the
2898 information required under Subsection (2)(d); and

2899 (b) (i) obtain from the pregnant woman a written certification that the information
2900 required to be provided under Subsection (2) and this Subsection (3) was provided in
2901 accordance with the requirements of Subsection (2) and this Subsection (3);

2902 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

2903 (iii) ensure that:

2904 (A) [~~described in Subsections 26-21-33(3) and (4);~~] the woman has received the
2905 information described in Subsections 26-21-33(3) and (4); and

2906 (B) if the woman has a preference for the disposition of the aborted fetus, the woman
2907 has informed the health care facility of the woman's decision regarding the disposition of the
2908 aborted fetus.

2909 (4) When a serious medical emergency compels the performance of an abortion, the
2910 physician shall inform the woman prior to the abortion, if possible, of the medical indications

2911 supporting the physician's judgment that an abortion is necessary.

2912 (5) If an ultrasound is performed on a woman before an abortion is performed, the
2913 individual who performs the ultrasound, or another qualified individual, shall:

2914 (a) inform the woman that the ultrasound images will be simultaneously displayed in a
2915 manner to permit her to:

2916 (i) view the images, if she chooses to view the images; or

2917 (ii) not view the images, if she chooses not to view the images;

2918 (b) simultaneously display the ultrasound images in order to permit the woman to:

2919 (i) view the images, if she chooses to view the images; or

2920 (ii) not view the images, if she chooses not to view the images;

2921 (c) inform the woman that, if she desires, the person performing the ultrasound, or
2922 another qualified person shall provide a detailed description of the ultrasound images,

2923 including:

2924 (i) the dimensions of the unborn child;

2925 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and

2926 (iii) the presence of external body parts or internal organs, if present and viewable; and

2927 (d) provide the detailed description described in Subsection (5)(c), if the woman
2928 requests it.

2929 (6) The information described in Subsections (2), (3), and (5) is not required to be
2930 provided to a pregnant woman under this section if the abortion is performed for a reason
2931 described in:

2932 (a) Subsection [76-7-302\(3\)\(b\)\(i\)](#), if the treating physician and one other physician
2933 concur, in writing, that the abortion is necessary to avert:

2934 (i) the death of the woman on whom the abortion is performed; or

2935 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
2936 of the woman on whom the abortion is performed; or

2937 (b) Subsection [76-7-302\(3\)\(b\)\(ii\)](#).

2938 (7) In addition to the criminal penalties described in this part, a physician who violates
2939 the provisions of this section:

2940 (a) is guilty of unprofessional conduct as defined in Section [58-67-102](#) or [58-68-102](#);

2941 and

2942 (b) shall be subject to:

2943 (i) suspension or revocation of the physician's license for the practice of medicine and
2944 surgery in accordance with Section 58-67-401 or 58-68-401; and

2945 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

2946 (8) A physician is not guilty of violating this section for failure to furnish any of the
2947 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

2948 (a) the physician can demonstrate by a preponderance of the evidence that the
2949 physician reasonably believed that furnishing the information would have resulted in a severely
2950 adverse effect on the physical or mental health of the pregnant woman;

2951 (b) in the physician's professional judgment, the abortion was necessary to avert:

2952 (i) the death of the woman on whom the abortion is performed; or

2953 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
2954 of the woman on whom the abortion is performed;

2955 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
2956 76-5-402 and 76-5-402.1;

2957 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and
2958 Section 76-7-102; or

2959 (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

2960 (9) A physician who complies with the provisions of this section and Section
2961 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
2962 informed consent under Section 78B-3-406.

2963 (10) (a) The department shall provide an ultrasound, in accordance with the provisions
2964 of Subsection (5)(b), at no expense to the pregnant woman.

2965 (b) A local health department shall refer a pregnant woman who requests an ultrasound
2966 described in Subsection (10)(a) to the department.

2967 (11) A physician is not guilty of violating this section if:

2968 (a) the information described in Subsection (2) is provided less than 72 hours before
2969 the physician performs the abortion; and

2970 (b) in the physician's professional judgment, the abortion was necessary in a case
2971 where:

2972 (i) a ruptured membrane, documented by the attending or referring physician, will

2973 cause a serious infection; or

2974 (ii) a serious infection, documented by the attending or referring physician, will cause a
2975 ruptured membrane.

2976 Section 36. Section **78A-6-602** is amended to read:

2977 **78A-6-602. Referrals -- Nonjudicial adjustments.**

2978 (1) As used in this section, "referral" means a formal referral, a referral to the court
2979 under Section **53G-8-211** or Subsection **78A-6-601(2)(b)**, or a citation issued to a minor for
2980 which the court receives notice under Section **78A-6-603**.

2981 (2) (a) A peace officer, or a public official of the state, a county, city, or town charged
2982 with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral
2983 with the court within 10 days of a minor's arrest.

2984 (b) If the arrested minor is taken to a detention facility, the peace officer, or public
2985 official, shall file the formal referral with the court within 24 hours.

2986 (c) A peace officer, public official, school district, or school may only make a referral
2987 to the court under Section **53G-8-211** for an offense that is subject to referral under Section
2988 **53G-8-211**.

2989 (3) If the court receives a referral for a minor who is, or appears to be, within the
2990 court's jurisdiction, the court's probation department shall make a preliminary inquiry in
2991 accordance with Subsections (5), (6), and (7) to determine whether the minor is eligible to enter
2992 into a nonjudicial adjustment.

2993 (4) If a minor is referred to the court for multiple offenses arising from a single
2994 criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the
2995 court's probation department shall offer the minor one nonjudicial adjustment for all offenses
2996 arising from the single criminal episode.

2997 (5) (a) The court's probation department may:

2998 (i) conduct a validated risk and needs assessment; and

2999 (ii) request that a prosecuting attorney review a referral in accordance with Subsection

3000 (11) if:

3001 (A) the results of the validated risk and needs assessment indicate the minor is high
3002 risk; or

3003 (B) the results of the validated risk and needs assessment indicate the minor is

3004 moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5,
3005 Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

3006 (b) If a minor violates Section 41-6a-502, the minor shall:

3007 (i) undergo a drug and alcohol screening;

3008 (ii) if found appropriate by the screening, participate in an assessment; and

3009 (iii) if warranted by the screening and assessment, follow the recommendations of the
3010 assessment.

3011 (6) Except as provided in Subsection (7)(b), the probation department shall request that
3012 a prosecuting attorney review a referral in accordance with Subsection (11) if:

3013 (a) the referral involves:

3014 (i) a felony offense; or

3015 (ii) a violation of:

3016 (A) Section 41-6a-502, driving under the influence;

3017 (B) Section 76-5-112, reckless endangerment creating a substantial risk of death or
3018 serious bodily injury;

3019 (C) Section 76-5-206, negligent homicide;

3020 (D) Section 76-9-702.1, sexual battery;

3021 (E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled
3022 shotgun on or about school premises; or

3023 (F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the
3024 dangerous weapon is a firearm;

3025 (b) the minor has a current suspended order for custody under Subsection

3026 78A-6-117(5)(a); or

3027 (c) the referral involves an offense alleged to have occurred before an individual was
3028 12 years old and the offense is a felony violation of:

3029 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

3030 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

3031 (iii) Section 76-5-203, murder or attempted murder;

3032 (iv) Section 76-5-302, aggravated kidnapping;

3033 (v) Section 76-5-405, aggravated sexual assault;

3034 (vi) Section 76-6-103, aggravated arson;

- 3035 (vii) Section 76-6-203, aggravated burglary;
- 3036 (viii) Section 76-6-302, aggravated robbery; or
- 3037 (ix) Section 76-10-508.1, felony discharge of a firearm.
- 3038 (7) (a) Except as provided in Subsections (5) and (6), the court's probation department
- 3039 shall offer a nonjudicial adjustment to a minor if the minor:
- 3040 (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
- 3041 (ii) has no more than two prior adjudications; and
- 3042 (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.
- 3043 (b) If the court receives a referral for an offense that is alleged to have occurred before
- 3044 an individual was 12 years old, the court's probation department shall offer a nonjudicial
- 3045 adjustment to the individual, unless the referral includes an offense described in Subsection
- 3046 (6)(c).
- 3047 (c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment
- 3048 under this Subsection (7), the court's probation department shall treat all offenses arising out of
- 3049 a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial
- 3050 adjustment.
- 3051 (ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under
- 3052 this Subsection (7), the court's probation department shall treat all offenses arising out of a
- 3053 single criminal episode that resulted in one or more prior adjudications as a single adjudication.
- 3054 (d) Except as provided in Subsection (6), the court's probation department may offer a
- 3055 nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection (7)(a).
- 3056 (8) For a nonjudicial adjustment, the court's probation department may require a minor
- 3057 to:
- 3058 (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the
- 3059 terms established under Subsection (10)(c);
- 3060 (b) pay restitution to any victim;
- 3061 (c) complete community or compensatory service;
- 3062 (d) attend counseling or treatment with an appropriate provider;
- 3063 (e) attend substantive abuse treatment or counseling;
- 3064 (f) comply with specified restrictions on activities or associations;

3065 (g) attend victim-offender mediation if requested by the victim; and

3066 (h) comply with any other reasonable action that is in the interest of the minor, the
3067 community, or the victim.

3068 (9) (a) Within seven days of receiving a referral that appears to be eligible for a
3069 nonjudicial adjustment in accordance with Subsection (7), the court's probation department
3070 shall provide an initial notice to reasonably identifiable and locatable victims of the offense
3071 contained in the referral.

3072 (b) The victim shall be responsible to provide to the probation department upon
3073 request:

3074 (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and
3075 out-of-pocket loss;

3076 (ii) documentation and evidence of compensation or reimbursement from an insurance
3077 company or an agency of the state, any other state, or the federal government received as a
3078 direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

3079 (iii) proof of identification, including home and work address and telephone numbers.

3080 (c) The inability, failure, or refusal of the victim to provide all or part of the requested
3081 information shall result in the probation department determining restitution based on the best
3082 information available.

3083 (10) (a) The court's probation department may not predicate acceptance of an offer of a
3084 nonjudicial adjustment on an admission of guilt.

3085 (b) The court's probation department may not deny a minor an offer of a nonjudicial
3086 adjustment due to a minor's inability to pay a financial penalty under Subsection (8).

3087 (c) The court's probation department shall base a fee, fine, or the restitution for a
3088 nonjudicial adjustment under Subsection (8) upon the ability of the minor's family to pay as
3089 determined by a statewide sliding scale developed in accordance with Section [63M-7-208](#) on or
3090 after July 1, 2018.

3091 (d) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile
3092 court judge extends the nonjudicial adjustment for an additional 90 days.

3093 (e) (i) Notwithstanding Subsection (10)(d), a juvenile court judge may extend a
3094 nonjudicial adjustment beyond the 180 days permitted under Subsection (10)(d) for a minor
3095 who is offered a nonjudicial adjustment under Subsection (7)(b) for a sexual offense under

3096 Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection (11)(b)(ii) for a
3097 sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed
3098 before the minor was 12 years old, if the judge determines that:

3099 (A) the nonjudicial adjustment requires specific treatment for the sexual offense;

3100 (B) the treatment cannot be completed within 180 days after the day on which the
3101 minor entered into the nonjudicial adjustment; and

3102 (C) the treatment is necessary based on a clinical assessment that is developmentally
3103 appropriate for the minor.

3104 (ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection
3105 (10)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the
3106 treatment under this Subsection (10)(e), but the judge may only grant each extension for 90
3107 days at a time.

3108 (f) If a minor violates Section [76-10-105](#), the minor may be required to pay a fine or
3109 penalty and participate in a court-approved tobacco education program with a participation fee.

3110 (11) If a prosecuting attorney is requested to review a referral in accordance with
3111 Subsection (5) or (6), a minor fails to substantially comply with a condition agreed upon as part
3112 of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in
3113 accordance with Subsection (7), the prosecuting attorney shall:

3114 (a) review the case; and

3115 (b) (i) dismiss the case;

3116 (ii) refer the case back to the probation department for a new attempt at nonjudicial
3117 adjustment; or

3118 (iii) except as provided in Subsections (12)(b), (13), and [78A-6-602.5\(2\)](#), file a petition
3119 with the court.

3120 (12) (a) A prosecuting attorney may file a petition only upon reasonable belief that:

3121 (i) the charges are supported by probable cause;

3122 (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable
3123 doubt; and

3124 (iii) the decision to charge is in the interests of justice.

3125 (b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under
3126 Subsection (11)(b)(iii) if the minor has substantially complied with the other conditions agreed

3127 upon in accordance with Subsection (8) or conditions imposed through any other court
3128 diversion program.

3129 (13) A prosecuting attorney may not file a petition against a minor unless:

3130 (a) the prosecuting attorney has statutory authority to file the petition under Section
3131 [78A-6-602.5](#); and

3132 (b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (7);

3133 (ii) the minor declines a nonjudicial adjustment;

3134 (iii) the minor fails to substantially comply with the conditions agreed upon as part of
3135 the nonjudicial adjustment;

3136 (iv) the minor fails to respond to the probation department's inquiry regarding
3137 eligibility for or an offer of a nonjudicial adjustment after being provided with notice for
3138 preliminary inquiry; or

3139 (v) the prosecuting attorney is acting under Subsection (11).

3140 (14) If the prosecuting attorney files a petition in court or a proceeding is commenced
3141 against a minor under Section [78A-6-603](#), the court may refer the case to the probation
3142 department for another offer of nonjudicial adjustment.

3143 Section 37. Section [78A-6-602.5](#) is amended to read:

3144 **[78A-6-602.5. Petition for a delinquency proceeding.](#)**

3145 (1) A prosecuting attorney shall file a petition to commence a proceeding against a
3146 minor for an adjudication of an alleged offense, except as provided in:

3147 (a) Subsection (2);

3148 [~~(b)~~ Subsection (3);]

3149 [~~(c)~~] (b) Section [78A-6-603](#);

3150 [~~(d)~~] (c) Section [~~78A-6-701~~] [78A-6-703.2](#); and

3151 [~~(e)~~] (d) Section [~~78A-6-702~~] [78A-6-703.3](#).

3152 (2) A prosecuting attorney may not file a petition under Subsection (1) against an
3153 individual for an offense alleged to have occurred before the individual was 12 years old,
3154 unless:

3155 (a) the individual is alleged to have committed a felony violation of:

3156 (i) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;

3157 (ii) Section [76-5-202](#), aggravated murder or attempted aggravated murder;

- 3158 (iii) Section 76-5-203, murder or attempted murder;
3159 (iv) Section 76-5-302, aggravated kidnapping;
3160 (v) Section 76-5-405, aggravated sexual assault;
3161 (vi) Section 76-6-103, aggravated arson;
3162 (vii) Section 76-6-203, aggravated burglary;
3163 (viii) Section 76-6-302, aggravated robbery; or
3164 (ix) Section 76-10-508.1, felony discharge of a firearm; or
3165 (b) an offer for a nonjudicial adjustment is made under Section 78A-6-602 and the
3166 minor:
3167 (i) declines to accept the offer for the nonjudicial adjustment; or
3168 (ii) fails to substantially comply with the conditions agreed upon as part of the
3169 nonjudicial adjustment.

3170 Section 38. Section 78B-7-118 (Effective 07/01/20) is amended to read:

3171 **78B-7-118 (Effective 07/01/20). Construction with Utah Rules of Civil Procedure.**

3172 To the extent the provisions of this [part] chapter are more specific than the Utah Rules
3173 of Civil Procedure regarding a civil protective order the provisions of this chapter govern.

3174 Section 39. **Effective dates.**

3175 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
3176 elected to each house, this bill takes effect:

3177 (a) on July 1, 2020; or

3178 (b) if later than July 1, 2020, the day following the constitutional time limit of Utah
3179 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
3180 the date of veto override.

3181 (2) (a) The amendments to Section 63J-1-602.1 (Effective 10/15/20) take effect on
3182 October 15, 2020.

3183 (b) The amendments to Section 59-2-1101 (Effective 01/01/21) take effect on January
3184 1, 2021.