

**Representative Craig Hall** proposes the following substitute bill:

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

2020 FIFTH SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Francis D. Gibson**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides special effective dates.

**Utah Code Sections Affected:**

AMENDS:

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

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

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

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

**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 **20A-7-308**, as last amended by Laws of Utah 2010, Chapter 367  
28 **20A-7-605**, as last amended by Laws of Utah 2020, Chapter 349  
29 **26-7-14**, as enacted by Laws of Utah 2020, Chapter 221  
30 **26-15b-102**, as enacted by Laws of Utah 2020, Chapter 189  
31 **26-15b-105**, as enacted by Laws of Utah 2020, Chapter 189  
32 **26-18-3.8**, as last amended by Laws of Utah 2020, Chapter 225  
33 **26-18-3.9**, as last amended by Laws of Utah 2020, Chapter 225  
34 **26-18-408**, as last amended by Laws of Utah 2020, Chapter 225  
35 **26-21-34**, as enacted by Laws of Utah 2020, Chapter 251  
36 **26-67-102**, as enacted by Laws of Utah 2020, Chapter 169  
37 **26-67-204**, as enacted by Laws of Utah 2020, Chapter 169  
38 **31A-22-626.5**, as enacted by Laws of Utah 2020, Chapter 310  
39 **32B-1-102**, as last amended by Laws of Utah 2020, Chapter 219  
40 **41-6a-904**, as last amended by Laws of Utah 2020, Chapter 74  
41 **54-3-8**, as last amended by Laws of Utah 2019, Chapter 460  
42 **58-4a-107**, as enacted by Laws of Utah 2020, Chapter 107  
43 **58-17b-1004 (Effective 07/01/20)**, as enacted by Laws of Utah 2020, Chapter 372  
44 **58-17b-1005 (Effective 07/01/20)**, as enacted by Laws of Utah 2020, Chapter 372  
45 **58-31b-502**, as last amended by Laws of Utah 2020, Chapter 25  
46 **58-55-503**, as last amended by Laws of Utah 2020, Chapters 339 and 380  
47 **58-60-405**, as last amended by Laws of Utah 2020, Chapters 252 and 339  
48 **59-2-1101 (Effective 01/01/21)**, as last amended by Laws of Utah 2020, Chapters 38  
49 and 305  
50 **63G-2-302**, as last amended by Laws of Utah 2020, Chapters 213 and 255  
51 **63G-7-701**, as last amended by Laws of Utah 2013, Chapter 278  
52 **63I-2-215**, as enacted by Laws of Utah 2019, Chapter 119  
53 **63J-1-602.1 (Effective 10/15/20)**, as last amended by Laws of Utah 2020, Chapters  
54 126, 186, 230, 322, 375, and 405  
55 **63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20)**, as last amended by Laws of Utah  
56 2020, Chapters 126, 186, 230, 322, 375, and 405

57 [72-10-205.5](#), as enacted by Laws of Utah 2020, Chapter 243  
 58 [73-10g-202](#), as last amended by Laws of Utah 2020, Chapter 33  
 59 [73-31-202](#), as enacted by Laws of Utah 2020, Chapter 342  
 60 [76-7-305](#), as last amended by Laws of Utah 2020, Chapter 251  
 61 [78A-6-602](#), as last amended by Laws of Utah 2020, Chapters 214, 312 and last  
 62 amended by Coordination Clause, Laws of Utah 2020, Chapter 214  
 63 [78A-6-602.5](#), as enacted by Laws of Utah 2020, Chapter 312 and last amended by  
 64 Coordination Clause, Laws of Utah 2020, Chapter 214  
 65 [78B-7-118 \(Effective 07/01/20\)](#), as enacted by Laws of Utah 2020, Chapter 142

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

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

69 **10-9a-208. Hearing and notice for petition to vacate a public street.**

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

- 72 (a) hold a public hearing; and
- 73 (b) give notice of the date, place, and time of the hearing, as provided in Subsection
- 74 (2).

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

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

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

86 **13-43-206. Advisory opinion -- Process.**

87 (1) A request for an advisory opinion under Section [13-43-205](#) shall be:

88 (a) filed with the Office of the Property Rights Ombudsman; and

89 (b) accompanied by a filing fee of \$150.

90 (2) The Office of the Property Rights Ombudsman may establish policies providing for  
91 partial fee waivers for a person who is financially unable to pay the entire fee.

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

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

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

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

98 (c) deliver notice to all necessary parties.

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

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

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

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

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

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

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

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

113 (b) investigate and consider all responses; and

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

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

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

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

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

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

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

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

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

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

138 (i) beginning on the later of:

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

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

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

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

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

146 (14) In addition to any amounts awarded under Subsection (12), if the dispute  
147 described in Subsection (12) in whole or in part concerns an impact fee, and if the result of the  
148 litigation requires that the political subdivision or private entity refund the impact fee in  
149 accordance with Section 11-36a-603, the political subdivision or private entity shall refund the

150 impact fee in an amount that is based on the difference between the impact fee paid and what  
151 the impact fee should have been if the political subdivision or private entity had correctly  
152 calculated the impact fee.

153 (15) Nothing in this section is intended to create any new cause of action under land  
154 use law.

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

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

159 **17B-2a-804. Additional public transit district powers.**

160 (1) In addition to the powers conferred on a public transit district under Section  
161 17B-1-103, a public transit district may:

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

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

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

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

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

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

171 (c) insure against:

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

174 (ii) public liability;

175 (iii) property damage; or

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

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

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

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

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

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

185 (f) operate feeder bus lines and other feeder or ridesharing services as necessary;

186 (g) accept a grant, contribution, or loan, directly through the sale of securities or  
187 equipment trust certificates or otherwise, from the United States, or from a department,  
188 instrumentality, or agency of the United States;

189 (h) study and plan transit facilities in accordance with any legislation passed by  
190 Congress;

191 (i) cooperate with and enter into an agreement with the state or an agency of the state  
192 or otherwise contract to finance to establish transit facilities and equipment or to study or plan  
193 transit facilities;

194 (j) subject to Subsection [17B-2a-808.1\(5\)](#), issue bonds as provided in and subject to  
195 Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

196 (k) from bond proceeds or any other available funds, reimburse the state or an agency  
197 of the state for an advance or contribution from the state or state agency;

198 (l) do anything necessary to avail itself of any aid, assistance, or cooperation available  
199 under federal law, including complying with labor standards and making arrangements for  
200 employees required by the United States or a department, instrumentality, or agency of the  
201 United States;

202 (m) sell or lease property;

203 (n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or  
204 transit-supportive developments;

205 (o) establish, finance, participate as a limited partner or member in a development with  
206 limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or  
207 operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented  
208 developments or transit-supportive developments; and

209 (p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a  
210 transit-oriented development or a transit-supportive development in connection with project  
211 area development as defined in Section [17C-1-102](#) by:

212 (i) investing in a project as a limited partner or a member, with limited liabilities; or  
213 (ii) subordinating an ownership interest in real property owned by the public transit  
214 district.

215 (2) (a) A public transit district may only assist in the development of areas under  
216 Subsection (1)(p) that have been approved by the board of trustees, and in the manners  
217 described in Subsection (1)(p).

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

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

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

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

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

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

- 238 (i) service and ridership;
- 239 (ii) regional plans made by the metropolitan planning agency;
- 240 (iii) the local economy;
- 241 (iv) the environment and air quality;
- 242 (v) affordable housing; and



243 (vi) integration with other modes of transportation; and  
 244 (b) provide evidence to the public of a quantifiable positive return on investment,  
 245 including improvements to public transit service.

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

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

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

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

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

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

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

259 **17D-3-304. Petition to nominate candidates for appointment to the board of**  
 260 **supervisors.**

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

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

266 (a) state:

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

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

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

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

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

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

275 **19-3-103.1. Board authority and duties under this part.**

276 (1) The board may:

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

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

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

280 (ii) appoint a hearing officer to conduct a hearing that is not an adjudicative

281 proceeding;

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

284 of this chapter;

285 (d) order the director to impound radioactive material in accordance with Section

286 **19-3-111**; or

287 (e) advise, consult, cooperate with, or provide technical assistance to another agency of

288 the state or federal government, another state, an interstate agency, an affected group, an

289 affected political subdivision, an affected industry, or other person in carrying out the purposes

290 of this part.

291 (2) The board shall:

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

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

295 (i) review a settlement negotiated by the director in accordance with Subsection

296 **19-3-108.1(2)(c)** that requires a civil penalty equal to or greater than \$25,000; and

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

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

299 (i) survey mammography equipment; or

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

301 (3) The board may not issue, amend, renew, modify, revoke, or terminate any of the

302 following that are subject to the authority granted to the director under Section **19-3-108.1**:

303 (a) a permit;

304 (b) a license;

- 305 (c) a registration;
- 306 (d) a certification; or
- 307 (e) another administrative authorization made by the director.

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

309 **19-5-108.5 (Effective 07/01/20). Storm water permits.**

310 (1) As used in this section:

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

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

314 (i) in accordance with this section; and

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

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

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

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

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

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

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

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

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

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

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

- 346 (i) the permittee shall:
  - 347 (A) select an engineer or engineering firm from the list described in Subsection (3);
  - 348 and
  - 349 (B) pay one-half of the cost of the independent review.

350 (ii) An engineer or engineering firm selected by the permittee under Subsection  
351 (4)(b)(i) may not be:

- 352 (A) associated with the application that is the subject of the appeal; or
- 353 (B) employed by the permittee.

- 354 (iii) The applicant shall pay:
  - 355 (A) one-half of the cost of the independent review; and
  - 356 (B) the municipality's published appeal fee.

357 Section 7. Section **20A-7-308** is amended to read:

358 **20A-7-308. Ballot title -- Duties of lieutenant governor and Office of Legislative**  
359 **Research and General Counsel.**

360 (1) Whenever a referendum petition is declared sufficient for submission to a vote of  
361 the people, the lieutenant governor shall deliver a copy of the petition and the proposed law to  
362 the Office of Legislative Research and General Counsel.

363 (2) (a) The Office of Legislative Research and General Counsel shall:

- 364 (i) entitle each state referendum that has qualified for the ballot "Proposition Number  
365 \_\_\_" and give it a number as assigned under Section [20A-6-107](#);
- 366 (ii) prepare an impartial ballot title for the referendum summarizing the contents of the

367 measure; and

368 (iii) return the petition and the ballot title to the lieutenant governor within 15 days  
369 after its receipt.

370 (b) The ballot title may be distinct from the title of the law that is the subject of the  
371 petition, and shall be not more than 100 words.

372 (c) The ballot title and the number of the measure as determined by the Office of  
373 Legislative Research and General Counsel shall be printed on the official ballot.

374 (3) Immediately after the Office of Legislative Research and General Counsel files a  
375 copy of the ballot title with the lieutenant governor, the lieutenant governor shall mail a copy of  
376 the ballot title to any of the sponsors of the petition.

377 (4) (a) (i) At least three of the sponsors of the petition may, within 15 days of the date  
378 the lieutenant governor mails the ballot title, challenge the wording of the ballot title prepared  
379 by the Office of Legislative Research and General Counsel to the Supreme Court.

380 (ii) After receipt of the appeal, the Supreme Court shall direct the lieutenant governor  
381 to send notice of the appeal to:

382 (A) any person or group that has filed an argument for or against the measure that is the  
383 subject of the challenge; or

384 (B) any political issues committee established under Section [20A-11-801](#) that has filed  
385 written or electronic notice with the lieutenant governor that identifies the name, mailing or  
386 email address, and telephone number of the person designated to receive notice about any  
387 issues relating to the ~~[initiative]~~ referendum.

388 (b) (i) There is a presumption that the ballot title prepared by the Office of Legislative  
389 Research and General Counsel is an impartial summary of the contents of the referendum.

390 (ii) The Supreme Court may not revise the wording of the ballot title unless the  
391 plaintiffs rebut the presumption by clearly and convincingly establishing that the ballot title is  
392 patently false or biased.

393 (c) The Supreme Court shall:

394 (i) examine the ballot title;

395 (ii) hear arguments; and

396 (iii) certify to the lieutenant governor a ballot title for the measure that meets the  
397 requirements of this section.

398 (d) The lieutenant governor shall certify the title verified by the Supreme Court to the  
399 county clerks to be printed on the official ballot.

400 Section 8. Section **20A-7-605** is amended to read:

401 **20A-7-605. Obtaining signatures -- Verification -- Removal of signature.**

402 (1) Any Utah voter may sign a local referendum petition if the voter is a legal voter and  
403 resides in the local jurisdiction.

404 (2) (a) The sponsors shall ensure that the individual in whose presence each signature  
405 sheet was signed:

406 (i) is at least 18 years old and meets the residency requirements of Section [20A-2-105](#);  
407 and

408 (ii) verifies each signature sheet by completing the verification printed on the last page  
409 of each referendum packet.

410 (b) An individual may not sign the verification printed on the last page of the  
411 referendum packet if the individual signed a signature sheet in the referendum packet.

412 (3) (a) Any voter who has signed a referendum petition may have the voter's signature  
413 removed from the petition by submitting a statement to that effect to the county clerk.

414 (b) Except as provided in Subsection (3)(c), upon receipt of the statement, the county  
415 clerk shall remove the signature of the individual submitting the statement from the referendum  
416 petition.

417 (c) A county clerk may not remove signatures from a referendum petition later than  
418 seven days after the day on which the sponsors timely submit the last signature packet to the  
419 county clerk.

420 (4) The sponsors of a referendum petition:

421 (a) shall, for each signature packet:

422 (i) within seven days after the day on which the first individual signs the signature  
423 packet, provide a clear, legible image of all signatures on the signature packet to the county  
424 clerk via email or other electronic means; and

425 (ii) immediately send a new image if the county clerk informs the sponsors that the  
426 image is not clear and legible;

427 (b) may not permit additional signatures on a signature packet of which the sponsors  
428 have sent an image under Subsection (4)(a); and

429 (c) may not submit a signature packet to the county clerk unless the sponsors timely  
430 comply with the requirements of Subsection (4)(a) in relation to the signature packet.

431 (5) Each person who gathers a signature removal statement described in Subsection  
432 (3):

433 (a) shall, within seven days after the day on which the individual signs the signature  
434 removal statement, provide a clear, legible image of the statement to the county clerk via email  
435 or other electronic means; and

436 (b) shall, immediately send a new image if the local clerk informs the sender that the  
437 image is not clear and legible; and

438 (c) may not submit a signature removal statement to the county clerk, unless the sender  
439 timely complies with the requirements of Subsections (5)(a) and (b) in relation to the signature  
440 removal statement.

441 (6) (a) The county clerk shall provide to an individual, upon request, a document or  
442 electronic list containing the name and voter identification number of each individual who  
443 signed the [~~initiative~~] referendum packet.

444 (b) Subject to Subsection [20A-7-606.3](#)(3), the local clerk may begin certifying,  
445 removing, and tallying signatures upon receipt of an image described in Subsection (4) or (5).

446 Section 9. Section **26-7-14** is amended to read:

447 **26-7-14. Study on violent incidents and fatalities involving substance abuse --**  
448 **Report.**

449 (1) As used in this section:

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

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

456 (c) "Violent incident" means:

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

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

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

460 (iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;  
461 (v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;  
462 (vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;  
463 (vii) a domestic violence offense, as defined in Section 77-36-1; and  
464 (viii) any other violent offense, as determined by the department.  
465 (2) In 2021 and continuing every other year, the department shall provide a report  
466 before October 1 to the Health and Human Services Interim Committee regarding the number  
467 of:

468 (a) violent incidents and fatalities that occurred in the state during the preceding  
469 calendar year that, at the time of occurrence, involved substance abuse;  
470 (b) drug overdose events in the state during the preceding calendar year; and  
471 (c) recommendations for legislation, if any, to prevent the occurrence of the events  
472 described in Subsections (2)(a) and (b).

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

474 (a) determine what information is necessary to complete the report described in  
475 Subsection (2) and from which local, state, and federal agencies the information may be  
476 obtained;  
477 (b) determine the cost of any research or data collection that is necessary to complete  
478 the report described in Subsection (2);  
479 (c) make recommendations for legislation, if any, that is necessary to facilitate the  
480 research or data collection described in Subsection (3)(b), including recommendations for  
481 legislation to assist with information sharing between local, state, federal, and private entities  
482 and the ~~[division]~~ department; and  
483 (d) report the findings described in Subsections (3)(a) through (c) to the Health and  
484 Human Services Interim Committee.

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

487 Section 10. Section 26-15b-102 is amended to read:

488 **26-15b-102. Definitions.**

489 As used in this chapter:

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



491 78B-4-512.

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

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

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

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

501 (6) "Food" means:

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

504 (b) chewing gum.

505 (7) "Local health department" means the same as that term is defined in Section  
506 26A-1-102.

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

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

511 Section 11. Section 26-15b-105 is amended to read:

512 **26-15b-105. Permit requirements -- Inspections.**

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

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

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

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

- 522 (d) the farm operates the agritourism food establishment for no more than 14  
523 consecutive days at a time; and
- 524 (e) the farm complies with the requirements of this section.
- 525 (2) The department shall, in accordance with Title 63G, Chapter 3, Utah  
526 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance  
527 requirements for agritourism food establishments.
- 528 (3) A local health department shall:
- 529 (a) ensure compliance with the rules described in Subsection (2) when inspecting a  
530 kitchen facility;
- 531 (b) notwithstanding Section 26A-1-113, inspect the kitchen facility of a farm that  
532 requests an agritourism food establishment permit only:
- 533 (i) for an initial inspection, no more than one week before the agritourism food  
534 establishment is scheduled to begin operation;
- 535 (ii) for an unscheduled inspection:
- 536 (A) of an event scheduled to last no more than three days if the local health department  
537 conducts the inspection within three days before or after the day on which the agritourism food  
538 establishment is scheduled to begin operation; or
- 539 (B) of an event scheduled to last longer than three days if the local health department  
540 conducts the inspection within three days before or after the day on which the agritourism food  
541 establishment is scheduled to begin operation, or conducts the inspection during operating  
542 hours of the agritourism food establishment; or
- 543 (iii) for subsequent inspections if:
- 544 (A) the local health department provides the operator with reasonable advanced notice  
545 about an inspection; or
- 546 (B) the local health department has a valid reason to suspect that the agritourism food  
547 establishment is the source of an adulterated food or of an outbreak of illness caused by a  
548 contaminated food; and
- 549 (c) document the reason for any inspection after the permitting inspection, keep a copy  
550 of that documentation on file with the agritourism food establishment's permit, and provide a  
551 copy of that documentation to the operator.
- 552 (4) An agritourism food establishment shall:

- 553 (a) take steps to avoid any potential contamination to:
- 554 (i) food;
- 555 (ii) equipment;
- 556 (iii) utensils; or
- 557 (iv) unwrapped single-service and single-use articles; and
- 558 (b) prevent an individual from entering the food preparation area while food is being
- 559 prepared if the individual is known to be suffering from:
- 560 (i) symptoms associated with acute gastrointestinal illness; or
- 561 (ii) a communicable disease that is transmissible through food.
- 562 (5) When making the rules described in Subsection (2), the department may not make
- 563 rules regarding:
- 564 (a) hand washing facilities, except to require that a hand washing station supplied with
- 565 warm water, soap, and disposable hand towels is conveniently located;
- 566 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that
- 567 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes
- 568 are sanitized between each use;
- 569 (c) the individuals allowed access to the food preparation areas, food storage, and
- 570 washing areas, except during food preparation;
- 571 (d) display guards, covers, or containers for display foods, except to require that any
- 572 food on display that is not protected from the direct line of a consumer's mouth by an effective
- 573 means is not served or sold to any subsequent consumer;
- 574 (e) outdoor display and sale of food, except to require that food is maintained at proper
- 575 holding temperatures;
- 576 (f) reuse by an individual of drinking cups and tableware for multiple portions;
- 577 (g) utensils and equipment, except to require that utensils and equipment used in the
- 578 home kitchen:
- 579 (i) retain their characteristic qualities under normal use conditions;
- 580 (ii) are properly sanitized after use; and
- 581 (iii) are maintained in a sanitary manner between uses;
- 582 (h) food contact surfaces, except to require that food contact surfaces are smooth,
- 583 easily cleanable, in good repair, and properly sanitized between tasks;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

627 (b) written standard operating procedures that include:

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

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

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

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

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

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

640 (8) An agritourism food establishment permit:

641 (a) is nontransferable;

642 (b) is renewable on an annual basis;

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

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

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

648 Section 12. Section **26-18-3.8** is amended to read:

649 **26-18-3.8. Maximizing use of premium assistance programs -- Utah's Premium**  
650 **Partnership for Health Insurance.**

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

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

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

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

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

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

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

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

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

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

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

679 Section 13. Section **26-18-3.9** is amended to read:

680 **26-18-3.9. Expanding the Medicaid program.**

681 (1) As used in this section:

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

684 (b) "Federal poverty level" means the same as that term is defined in Section  
685 [26-18-411](#).

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

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

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

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

694 (c) The department may implement any provision described in Subsections  
695 [26-18-415\(2\)\(b\)\(iii\)](#) through (viii) in a Medicaid expansion if the department receives approval  
696 from CMS to implement that provision.

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

699 (a) receives approval from CMS to:

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

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

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

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

708 with funds from:

709 (i) the Medicaid Expansion Fund;

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

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

712 expenditures; and

713 (c) closes the Medicaid program to new enrollment under the Medicaid expansion

714 under this Subsection (3) if the department projects that the cost of the Medicaid expansion

715 under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized

716 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter

717 1, Budgetary Procedures Act.

718 (4) (a) The department shall expand the Medicaid program in accordance with this

719 Subsection (4) if the department:

720 (i) receives approval from CMS to:

721 (A) expand Medicaid coverage to eligible individuals whose income is below 95% of

722 the federal poverty level;

723 (B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for

724 enrolling an individual in the Medicaid expansion under this Subsection (4); and

725 (C) permit the state to close enrollment in the Medicaid expansion under this

726 Subsection (4) if the department has insufficient funds to provide services to new enrollment

727 under the Medicaid expansion under this Subsection (4);

728 (ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4)

729 with funds from:

730 (A) the Medicaid Expansion Fund;

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

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

733 expenditures; and

734 (iii) closes the Medicaid program to new enrollment under the Medicaid expansion

735 under this Subsection (4) if the department projects that the cost of the Medicaid expansion

736 under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized

737 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter

738 1, Budgetary Procedures Act.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

775 (ii) July 1, 2020.

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

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

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

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

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

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

789 (i) the Medicaid Expansion Fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

816 and

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

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

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

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

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

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

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

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

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

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

833 Section 14. Section ~~26-18-408~~ is amended to read:

834 **26-18-408. Incentives to appropriately use emergency department services.**

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

837 (b) As used in this section:

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

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

843 (iii) "Non-emergent care":

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

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

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

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

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

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

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

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

863 professional compensation for services rendered in an emergency department.

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

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

871 (3) A managed care organization shall:

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

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

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

879 (4) The department may:

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

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

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

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

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

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

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

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

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

897 Section 15. Section **26-21-34** is amended to read:

898 **26-21-34. Treatment of miscarried remains.**

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

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

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

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

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

912 (c) A health care facility may serve as an authorizing agent as defined in Section  
913 [58-9-102](#) with respect to the final disposition of a miscarried fetus if:

- 914 (i) the parent provides written authorization for the health care facility to act as the  
915 authorizing agent; or
- 916 (ii) (A) more than 72 hours have passed since the miscarriage occurs; and  
917 (B) the parent did not exercise their right to control the final disposition of the  
918 miscarried fetus under Subsection (4)(a).

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

- 921 (i) conduct the final disposition of the miscarried remains in accordance with this  
922 section; or
  - 923 (ii) ensure that the miscarried remains are preserved until final disposition.
- 924 (e) A health care facility shall conduct the final disposition under this section in

925 accordance with applicable state and federal law.

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

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

932 (b) A health care facility shall:

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

934 (A) a form approved by the department;

935 (B) an in-person consultation with a physician; or

936 (C) an in-person consultation with a mental health therapist as defined in Section  
937 [58-60-102](#); and

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

940 (4) The parents of a miscarried fetus:

941 (a) have the right to control the final disposition of the miscarried fetus;

942 (b) if the parents have a preference for disposition of the miscarried fetus, shall inform  
943 the health care facility of the parents' decision for final disposition of the miscarried fetus; and

944 (c) are responsible for the costs related to the final disposition of the miscarried fetus at  
945 the chosen location if the parents choose a method or location for the final disposition of the  
946 miscarried fetus that is different from the method or location that is usual and customary for the  
947 health care facility.

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

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

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

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

956 not subject to the requirements of this section.

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

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

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

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

962 Section 16. Section **26-67-102** is amended to read:

963 **26-67-102. Definitions.**

964 As used in this chapter:

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

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

969 (3) "Applied behavior analysis" means the same as that term is defined in Section  
970 [31A-22-642](#).

971 (4) "Autism spectrum disorder" means the same as that term is defined in Section  
972 [31A-22-642](#).

973 (5) "Program" means the Adult Autism Treatment Program created in Section  
974 [26-67-201](#).

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

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

977 (b) is a resident of the state;

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

979 (i) an autism spectrum disorder; or

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

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

984 (i) cognitive ability;

985 (ii) adaptive ability;

986 (iii) behavior; and



987 (iv) communication ability.

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

990 Section 17. Section 26-67-204 is amended to read:

991 **26-67-204. Department rulemaking.**

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

994 (1) specify assessment tools and outcomes that a qualified provider may use to  
995 determine the types of supports that a qualified [~~individuals~~] individual needs;

996 (2) define evidence-based treatments that a qualified individual may pay for with grant  
997 funding;

998 (3) establish criteria for awarding a grant under this chapter;

999 (4) specify the information that an individual shall submit to demonstrate that the  
1000 individual is a qualified individual;

1001 (5) specify the information a provider shall submit to demonstrate that the provider is a  
1002 qualified provider; and

1003 (6) specify the content and timing of reports required from a qualified provider,  
1004 including a report on actual and projected treatment outcomes for a qualified individual.

1005 Section 18. Section 31A-22-626.5 is amended to read:

1006 **31A-22-626.5. Affordable insulin study.**

1007 (1) As used in this section, "insulin" means a prescription drug that contains insulin.

1008 (2) The department shall obtain funding through grants to fund a study on insulin costs.

1009 (3) If the department obtains the funding described in Subsection (2), the department  
1010 shall, on or before October 30, 2020, complete a study on the cost of insulin manufacturing and  
1011 factors that determine the price of insulin.

1012 (4) The department shall use public, readily available data accessible to the department  
1013 to conduct the study described in Subsection (3).

1014 (5) The study described in Subsection (3) shall investigate:

1015 (a) current and historical trend information about the wholesale acquisition cost of  
1016 insulin;

1017 (b) the cost to produce insulin;

- 1018 (c) explanations for increases in insulin costs;
- 1019 (d) expenditures of drug manufacturers in marketing insulin;
- 1020 (e) manufacturers' net profits from insulin;
- 1021 (f) the portion of [a] drug manufacturers' total net profits that is composed of insulin
- 1022 net profits;
- 1023 (g) financial assistance currently available to individuals who use insulin through
- 1024 patient prescription assistance programs;
- 1025 (h) value to individuals who use insulin benefits including:
- 1026 (i) coupons provided directly to individuals who use insulin; and
- 1027 (ii) programs to assist individuals who use insulin in paying co-payments and
- 1028 coinsurance;
- 1029 (i) costs to drug manufacturers of the programs described in Subsection (5)(h);
- 1030 (j) total value of benefits manufacturers provide in the form of rebates for insulin to
- 1031 health plans or pharmacy benefit managers in Utah; and
- 1032 (k) additional information that the department determines will aid the Legislature in
- 1033 developing policy to reduce insulin prices in Utah.
- 1034 (6) (a) On or before October 30, 2020, the department shall submit a final report on the
- 1035 study described in Subsection (3) to the Health and Human Services Interim Committee and
- 1036 the Business and Labor Interim Committee.
- 1037 (b) The department's report may include recommendations on legislation for:
- 1038 (i) increased drug pricing transparency; and
- 1039 (ii) programs that would meaningfully reduce the cost of insulin.
- 1040 (c) The final report shall include references to all sources of information and data used
- 1041 in the report and study, except the department may not disclose information that is proprietary
- 1042 or protected under state law or federal law or regulation.
- 1043 Section 19. Section **32B-1-102** is amended to read:
- 1044 **32B-1-102. Definitions.**
- 1045 As used in this title:
- 1046 (1) "Airport lounge" means a business location:
- 1047 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- 1048 (b) that is located at an international airport with a United States Customs office on the

1049 premises of the international airport.

1050 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,  
1051 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

1052 (3) "Alcoholic beverage" means the following:

1053 (a) beer; or

1054 (b) liquor.

1055 (4) (a) "Alcoholic product" means a product that:

1056 (i) contains at least .5% of alcohol by volume; and

1057 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other  
1058 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol  
1059 in an amount equal to or greater than .5% of alcohol by volume.

1060 (b) "Alcoholic product" includes an alcoholic beverage.

1061 (c) "Alcoholic product" does not include any of the following common items that  
1062 otherwise come within the definition of an alcoholic product:

1063 (i) except as provided in Subsection (4)(d), an extract;

1064 (ii) vinegar;

1065 (iii) preserved nonintoxicating cider;

1066 (iv) essence;

1067 (v) tincture;

1068 (vi) food preparation; or

1069 (vii) an over-the-counter medicine.

1070 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation  
1071 when it is used as a flavoring in the manufacturing of an alcoholic product.

1072 (5) "Alcohol training and education seminar" means a seminar that is:

1073 (a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

1074 (b) described in Section [62A-15-401](#).

1075 (6) "Arena" means an enclosed building:

1076 (a) that is managed by:

1077 (i) the same person who owns the enclosed building;

1078 (ii) a person who has a majority interest in each person who owns or manages a space  
1079 in the enclosed building; or

1080 (iii) a person who has authority to direct or exercise control over the management or  
1081 policy of each person who owns or manages a space in the enclosed building;

1082 (b) that operates as a venue; and

1083 (c) that has an occupancy capacity of at least 12,500.

1084 (7) "Arena license" means a license issued in accordance with Chapter 5, Retail  
1085 License Act, and Chapter 8c, Arena License Act.

1086 (8) "Banquet" means an event:

1087 (a) that is a private event or a privately sponsored event;

1088 (b) that is held at one or more designated locations approved by the commission in or  
1089 on the premises of:

1090 (i) a hotel;

1091 (ii) a resort facility;

1092 (iii) a sports center;

1093 (iv) a convention center;

1094 (v) a performing arts facility; or

1095 (vi) an arena;

1096 (c) for which there is a contract:

1097 (i) between a person operating a facility listed in Subsection (8)(b) and another person  
1098 that has common ownership of less than 20% with the person operating the facility; and

1099 (ii) under which the person operating a facility listed in Subsection (8)(b) is required to  
1100 provide an alcoholic product at the event; and

1101 (d) at which food and alcoholic products may be sold, offered for sale, or furnished.

1102 (9) "Bar structure" means a surface or structure on a licensed premises if on or at any  
1103 place of the surface or structure an alcoholic product is:

1104 (a) stored; or

1105 (b) dispensed.

1106 (10) (a) "Bar establishment license" means a license issued in accordance with Chapter  
1107 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

1108 (b) "Bar establishment license" includes:

1109 (i) a dining club license;

1110 (ii) an equity license;

- 1111 (iii) a fraternal license; or
- 1112 (iv) a bar license.
- 1113 (11) "Bar license" means a license issued in accordance with Chapter 5, Retail License
- 1114 Act, and Chapter 6, Part 4, Bar Establishment License.
- 1115 (12) (a) Subject to Subsection [~~(10)~~] (12)(d), "beer" means a product that:
- 1116 (i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by
- 1117 volume or 4% by weight; and
- 1118 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 1119 (b) "Beer" may or may not contain hops or other vegetable products.
- 1120 (c) "Beer" includes a product that:
- 1121 (i) contains alcohol in the percentages described in Subsection (12)(a); and
- 1122 (ii) is referred to as:
- 1123 (A) beer;
- 1124 (B) ale;
- 1125 (C) porter;
- 1126 (D) stout;
- 1127 (E) lager; or
- 1128 (F) a malt or malted beverage.
- 1129 (d) "Beer" does not include a flavored malt beverage.
- 1130 (13) "Beer-only restaurant license" means a license issued in accordance with Chapter
- 1131 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 1132 (14) "Beer retailer" means a business that:
- 1133 (a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether
- 1134 for consumption on or off the business premises; and
- 1135 (b) is licensed as:
- 1136 (i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer
- 1137 Retailer Local Authority; or
- 1138 (ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and
- 1139 Chapter 6, Part 7, On-Premise Beer Retailer License.
- 1140 (15) "Beer wholesaling license" means a license:
- 1141 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

1142 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more  
1143 retail licensees or off-premise beer retailers.

1144 (16) "Billboard" means a public display used to advertise, including:

1145 (a) a light device;

1146 (b) a painting;

1147 (c) a drawing;

1148 (d) a poster;

1149 (e) a sign;

1150 (f) a signboard; or

1151 (g) a scoreboard.

1152 (17) "Brewer" means a person engaged in manufacturing:

1153 (a) beer;

1154 (b) heavy beer; or

1155 (c) a flavored malt beverage.

1156 (18) "Brewery manufacturing license" means a license issued in accordance with  
1157 Chapter 11, Part 5, Brewery Manufacturing License.

1158 (19) "Certificate of approval" means a certificate of approval obtained from the  
1159 department under Section [32B-11-201](#).

1160 (20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by  
1161 a bus company to a group of persons pursuant to a common purpose:

1162 (a) under a single contract;

1163 (b) at a fixed charge in accordance with the bus company's tariff; and

1164 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other  
1165 motor vehicle, and a driver to travel together to one or more specified destinations.

1166 (21) "Church" means a building:

1167 (a) set apart for worship;

1168 (b) in which religious services are held;

1169 (c) with which clergy is associated; and

1170 (d) that is tax exempt under the laws of this state.

1171 (22) "Commission" means the Alcoholic Beverage Control Commission created in  
1172 Section [32B-2-201](#).

- 1173 (23) "Commissioner" means a member of the commission.
- 1174 (24) "Community location" means:
- 1175 (a) a public or private school;
- 1176 (b) a church;
- 1177 (c) a public library;
- 1178 (d) a public playground; or
- 1179 (e) a public park.
- 1180 (25) "Community location governing authority" means:
- 1181 (a) the governing body of the community location; or
- 1182 (b) if the commission does not know who is the governing body of a community
- 1183 location, a person who appears to the commission to have been given on behalf of the
- 1184 community location the authority to prohibit an activity at the community location.
- 1185 (26) "Container" means a receptacle that contains an alcoholic product, including:
- 1186 (a) a bottle;
- 1187 (b) a vessel; or
- 1188 (c) a similar item.
- 1189 (27) "Convention center" means a facility that is:
- 1190 (a) in total at least 30,000 square feet; and
- 1191 (b) otherwise defined as a "convention center" by the commission by rule.
- 1192 (28) (a) "Counter" means a surface or structure in a dining area of a licensed premises
- 1193 where seating is provided to a patron for service of food.
- 1194 (b) "Counter" does not include a dispensing structure.
- 1195 (29) "Crime involving moral turpitude" is as defined by the commission by rule.
- 1196 (30) "Department" means the Department of Alcoholic Beverage Control created in
- 1197 Section [32B-2-203](#).
- 1198 (31) "Department compliance officer" means an individual who is:
- 1199 (a) an auditor or inspector; and
- 1200 (b) employed by the department.
- 1201 (32) "Department sample" means liquor that is placed in the possession of the
- 1202 department for testing, analysis, and sampling.
- 1203 (33) "Dining club license" means a license issued in accordance with Chapter 5, Retail

1204 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the  
1205 commission as a dining club license.

1206 (34) "Director," unless the context requires otherwise, means the director of the  
1207 department.

1208 (35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this  
1209 title:

1210 (a) against a person subject to administrative action; and

1211 (b) that is brought on the basis of a violation of this title.

1212 (36) (a) Subject to Subsection (36)(b), "dispense" means:

1213 (i) drawing an alcoholic product; and

1214 (ii) using the alcoholic product at the location from which it was drawn to mix or  
1215 prepare an alcoholic product to be furnished to a patron of the retail licensee.

1216 (b) The definition of "dispense" in this Subsection (36) applies only to:

1217 (i) a full-service restaurant license;

1218 (ii) a limited-service restaurant license;

1219 (iii) a reception center license; and

1220 (iv) a beer-only restaurant license.

1221 (37) "Dispensing structure" means a surface or structure on a licensed premises:

1222 (a) where an alcoholic product is dispensed; or

1223 (b) from which an alcoholic product is served.

1224 (38) "Distillery manufacturing license" means a license issued in accordance with  
1225 Chapter 11, Part 4, Distillery Manufacturing License.

1226 (39) "Distressed merchandise" means an alcoholic product in the possession of the  
1227 department that is saleable, but for some reason is unappealing to the public.

1228 (40) "Equity license" means a license issued in accordance with Chapter 5, Retail  
1229 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the  
1230 commission as an equity license.

1231 (41) "Event permit" means:

1232 (a) a single event permit; or

1233 (b) a temporary beer event permit.

1234 (42) "Exempt license" means a license exempt under Section [32B-1-201](#) from being



1235 considered in determining the total number of retail licenses that the commission may issue at  
1236 any time.

1237 (43) (a) "Flavored malt beverage" means a beverage:

1238 (i) that contains at least .5% alcohol by volume;

1239 (ii) that is treated by processing, filtration, or another method of manufacture that is not  
1240 generally recognized as a traditional process in the production of a beer as described in 27  
1241 C.F.R. Sec. 25.55;

1242 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop  
1243 extract; and

1244 (iv) (A) for which the producer is required to file a formula for approval with the  
1245 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

1246 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

1247 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

1248 (44) "Fraternal license" means a license issued in accordance with Chapter 5, Retail  
1249 License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the  
1250 commission as a fraternal license.

1251 (45) "Full-service restaurant license" means a license issued in accordance with  
1252 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

1253 (46) (a) "Furnish" means by any means to provide with, supply, or give an individual  
1254 an alcoholic product, by sale or otherwise.

1255 (b) "Furnish" includes to:

1256 (i) serve;

1257 (ii) deliver; or

1258 (iii) otherwise make available.

1259 (47) "Guest" means an individual who meets the requirements of Subsection  
1260 [32B-6-407\(9\)](#).

1261 (48) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

1262 (49) "Health care practitioner" means:

1263 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1264 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

1265 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

- 1266 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice  
1267 Act;
- 1268 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,  
1269 Nurse Practice Act;
- 1270 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy  
1271 Practice Act;
- 1272 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational  
1273 Therapy Practice Act;
- 1274 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 1275 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health  
1276 Professional Practice Act;
- 1277 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;
- 1278 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical  
1279 Practice Act;
- 1280 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental  
1281 Hygienist Practice Act; and
- 1282 (m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician  
1283 Assistant Act.
- 1284 (50) (a) "Heavy beer" means a product that:
- 1285 (i) contains more than 5% alcohol by volume; and
- 1286 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 1287 (b) "Heavy beer" is considered liquor for the purposes of this title.
- 1288 (51) "Hospitality amenity license" means a license issued in accordance with Chapter  
1289 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.
- 1290 (52) "Hotel" means a commercial lodging establishment that:
- 1291 (a) offers at least 40 rooms as temporary sleeping accommodations for compensation;
- 1292 (b) is capable of hosting conventions, conferences, and food and beverage functions  
1293 under a banquet contract; and
- 1294 (c) (i) has adequate kitchen or culinary facilities on the premises to provide complete  
1295 meals; or
- 1296 (ii) (A) has at least 1,000 square feet of function space consisting of meeting or dining

1297 rooms that can be reserved for private use under a banquet contract and can accommodate at  
1298 least 75 individuals; or

1299 (B) if the establishment is located in a small or unincorporated locality, has an  
1300 appropriate amount of function space consisting of meeting or dining rooms that can be  
1301 reserved for private use under a banquet contract, as determined by the commission.

1302 (53) "Hotel license" means a license issued in accordance with Chapter 5, Retail  
1303 License Act, and Chapter 8b, Hotel License Act.

1304 (54) "Identification card" means an identification card issued under Title 53, Chapter 3,  
1305 Part 8, Identification Card Act.

1306 (55) "Industry representative" means an individual who is compensated by salary,  
1307 commission, or other means for representing and selling an alcoholic product of a  
1308 manufacturer, supplier, or importer of liquor.

1309 (56) "Industry representative sample" means liquor that is placed in the possession of  
1310 the department for testing, analysis, and sampling by a local industry representative on the  
1311 premises of the department to educate the local industry representative of the quality and  
1312 characteristics of the product.

1313 (57) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing  
1314 of an alcoholic product is prohibited by:

- 1315 (a) law; or
- 1316 (b) court order.

1317 (58) "Intoxicated" means that a person:

1318 (a) is significantly impaired as to the person's mental or physical functions as a result of  
1319 the use of:

- 1320 (i) an alcoholic product;
- 1321 (ii) a controlled substance;
- 1322 (iii) a substance having the property of releasing toxic vapors; or
- 1323 (iv) a combination of Subsections (58)(a)(i) through (iii); and

1324 (b) exhibits plain and easily observed outward manifestations of behavior or physical  
1325 signs produced by the overconsumption of an alcoholic product.

1326 (59) "Investigator" means an individual who is:

- 1327 (a) a department compliance officer; or

- 1328 (b) a nondepartment enforcement officer.
- 1329 (60) "License" means:
- 1330 (a) a retail license;
- 1331 (b) a sublicense;
- 1332 (c) a license issued in accordance with Chapter 11, Manufacturing and Related
- 1333 Licenses Act;
- 1334 (d) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;
- 1335 (e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or
- 1336 (f) a license issued in accordance with Chapter 17, Liquor Transport License Act.
- 1337 (61) "Licensee" means a person who holds a license.
- 1338 (62) "Limited-service restaurant license" means a license issued in accordance with
- 1339 Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.
- 1340 (63) "Limousine" means a motor vehicle licensed by the state or a local authority, other
- 1341 than a bus or taxicab:
- 1342 (a) in which the driver and a passenger are separated by a partition, glass, or other
- 1343 barrier;
- 1344 (b) that is provided by a business entity to one or more individuals at a fixed charge in
- 1345 accordance with the business entity's tariff; and
- 1346 (c) to give the one or more individuals the exclusive use of the limousine and a driver
- 1347 to travel to one or more specified destinations.
- 1348 (64) (a) (i) "Liquor" means a liquid that:
- 1349 (A) is:
- 1350 (I) alcohol;
- 1351 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;
- 1352 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or
- 1353 (IV) other drink or drinkable liquid; and
- 1354 (B) (I) contains at least .5% alcohol by volume; and
- 1355 (II) is suitable to use for beverage purposes.
- 1356 (ii) "Liquor" includes:
- 1357 (A) heavy beer;
- 1358 (B) wine; and

- 1359 (C) a flavored malt beverage.
- 1360 (b) "Liquor" does not include beer.
- 1361 (65) "Liquor Control Fund" means the enterprise fund created by Section [32B-2-301](#).
- 1362 (66) "Liquor transport license" means a license issued in accordance with Chapter 17,  
1363 Liquor Transport License Act.
- 1364 (67) "Liquor warehousing license" means a license that is issued:
- 1365 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and
- 1366 (b) to a person, other than a licensed manufacturer, who engages in the importation for  
1367 storage, sale, or distribution of liquor regardless of amount.
- 1368 (68) "Local authority" means:
- 1369 (a) for premises that are located in an unincorporated area of a county, the governing  
1370 body of a county;
- 1371 (b) for premises that are located in an incorporated city, town, or metro township, the  
1372 governing body of the city, town, or metro township; or
- 1373 (c) for premises that are located in a project area as defined in Section [~~63H-1-201~~]  
1374 [63H-1-102](#) and in a project area plan adopted by the Military Installation Development  
1375 Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the  
1376 Military Installation Development Authority.
- 1377 (69) "Lounge or bar area" is as defined by rule made by the commission.
- 1378 (70) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or  
1379 otherwise make an alcoholic product for personal use or for sale or distribution to others.
- 1380 (71) "Member" means an individual who, after paying regular dues, has full privileges  
1381 in an equity licensee or fraternal licensee.
- 1382 (72) (a) "Military installation" means a base, air field, camp, post, station, yard, center,  
1383 or homeport facility for a ship:
- 1384 (i) (A) under the control of the United States Department of Defense; or
- 1385 (B) of the National Guard;
- 1386 (ii) that is located within the state; and
- 1387 (iii) including a leased facility.
- 1388 (b) "Military installation" does not include a facility used primarily for:
- 1389 (i) civil works;

- 1390 (ii) a rivers and harbors project; or
- 1391 (iii) a flood control project.
- 1392 (73) "Minibar" means an area of a hotel guest room where one or more alcoholic
- 1393 products are kept and offered for self-service sale or consumption.
- 1394 (74) "Minor" means an individual under the age of 21 years.
- 1395 (75) "Nondepartment enforcement agency" means an agency that:
- 1396 (a) (i) is a state agency other than the department; or
- 1397 (ii) is an agency of a county, city, town, or metro township; and
- 1398 (b) has a responsibility to enforce one or more provisions of this title.
- 1399 (76) "Nondepartment enforcement officer" means an individual who is:
- 1400 (a) a peace officer, examiner, or investigator; and
- 1401 (b) employed by a nondepartment enforcement agency.
- 1402 (77) (a) "Off-premise beer retailer" means a beer retailer who is:
- 1403 (i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and
- 1404 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 1405 premises.
- 1406 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 1407 (78) "Off-premise beer retailer state license" means a state license issued in accordance
- 1408 with Chapter 7, Part 4, Off-Premise Beer Retailer State License.
- 1409 (79) "On-premise banquet license" means a license issued in accordance with Chapter
- 1410 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 1411 (80) "On-premise beer retailer" means a beer retailer who is:
- 1412 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 1413 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 1414 Retailer License; and
- 1415 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 1416 premises:
- 1417 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 1418 premises; and
- 1419 (ii) on and after March 1, 2012, operating:
- 1420 (A) as a tavern; or

- 1421 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 1422 (81) "Opaque" means impenetrable to sight.
- 1423 (82) "Package agency" means a retail liquor location operated:
- 1424 (a) under an agreement with the department; and
- 1425 (b) by a person:
- 1426 (i) other than the state; and
- 1427 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 1428 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 1429 (83) "Package agent" means a person who holds a package agency.
- 1430 (84) "Patron" means an individual to whom food, beverages, or services are sold,
- 1431 offered for sale, or furnished, or who consumes an alcoholic product including:
- 1432 (a) a customer;
- 1433 (b) a member;
- 1434 (c) a guest;
- 1435 (d) an attendee of a banquet or event;
- 1436 (e) an individual who receives room service;
- 1437 (f) a resident of a resort; or
- 1438 (g) a hospitality guest, as defined in Section [32B-6-1002](#), under a hospitality amenity
- 1439 license.
- 1440 (85) (a) "Performing arts facility" means a multi-use performance space that:
- 1441 (i) is primarily used to present various types of performing arts, including dance,
- 1442 music, and theater;
- 1443 (ii) contains over 2,500 seats;
- 1444 (iii) is owned and operated by a governmental entity; and
- 1445 (iv) is located in a city of the first class.
- 1446 (b) "Performing arts facility" does not include a space that is used to present sporting
- 1447 events or sporting competitions.
- 1448 (86) "Permittee" means a person issued a permit under:
- 1449 (a) Chapter 9, Event Permit Act; or
- 1450 (b) Chapter 10, Special Use Permit Act.
- 1451 (87) "Person subject to administrative action" means:

- 1452 (a) a licensee;
- 1453 (b) a permittee;
- 1454 (c) a manufacturer;
- 1455 (d) a supplier;
- 1456 (e) an importer;
- 1457 (f) one of the following holding a certificate of approval:
- 1458 (i) an out-of-state brewer;
- 1459 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
- 1460 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 1461 (g) staff of:
- 1462 (i) a person listed in Subsections (87)(a) through (f); or
- 1463 (ii) a package agent.
- 1464 (88) "Premises" means a building, enclosure, or room used in connection with the
- 1465 storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product,
- 1466 unless otherwise defined in this title or rules made by the commission.
- 1467 (89) "Prescription" means an order issued by a health care practitioner when:
- 1468 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
- 1469 to prescribe a controlled substance, other drug, or device for medicinal purposes;
- 1470 (b) the order is made in the course of that health care practitioner's professional
- 1471 practice; and
- 1472 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.
- 1473 (90) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.
- 1474 (b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.
- 1475 (91) "Principal license" means:
- 1476 (a) a resort license;
- 1477 (b) a hotel license; or
- 1478 (c) an arena license.
- 1479 (92) (a) "Private event" means a specific social, business, or recreational event:
- 1480 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
- 1481 group; and
- 1482 (ii) that is limited in attendance to people who are specifically designated and their



1483 guests.

1484 (b) "Private event" does not include an event to which the general public is invited,  
1485 whether for an admission fee or not.

1486 (93) "Privately sponsored event" means a specific social, business, or recreational  
1487 event:

1488 (a) that is held in or on the premises of an on-premise banquet licensee; and

1489 (b) to which entry is restricted by an admission fee.

1490 (94) (a) "Proof of age" means:

1491 (i) an identification card;

1492 (ii) an identification that:

1493 (A) is substantially similar to an identification card;

1494 (B) is issued in accordance with the laws of a state other than Utah in which the  
1495 identification is issued;

1496 (C) includes date of birth; and

1497 (D) has a picture affixed;

1498 (iii) a valid driver license certificate that:

1499 (A) includes date of birth;

1500 (B) has a picture affixed; and

1501 (C) is issued:

1502 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

1503 (II) in accordance with the laws of the state in which it is issued;

1504 (iv) a military identification card that:

1505 (A) includes date of birth; and

1506 (B) has a picture affixed; or

1507 (v) a valid passport.

1508 (b) "Proof of age" does not include a driving privilege card issued in accordance with  
1509 Section [53-3-207](#).

1510 (95) "Provisions applicable to a sublicense" means:

1511 (a) for a full-service restaurant sublicense, the provisions applicable to a full-service  
1512 restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

1513 (b) for a limited-service restaurant sublicense, the provisions applicable to a

1514 limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

1515 (c) for a bar establishment sublicense, the provisions applicable to a bar establishment  
1516 license under Chapter 6, Part 4, Bar Establishment License;

1517 (d) for an on-premise banquet sublicense, the provisions applicable to an on-premise  
1518 banquet license under Chapter 6, Part 6, On-Premise Banquet License;

1519 (e) for an on-premise beer retailer sublicense, the provisions applicable to an  
1520 on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer license;

1521 (f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only  
1522 restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

1523 (g) for a hospitality amenity license, the provisions applicable to a hospitality amenity  
1524 license under Chapter 6, Part 10, Hospitality Amenity License; and

1525 (h) for a resort spa sublicense, the provisions applicable to the sublicense under  
1526 Chapter 8d, Part 2, Resort Spa Sublicense.

1527 (96) (a) "Public building" means a building or permanent structure that is:

1528 (i) owned or leased by:

1529 (A) the state; or

1530 (B) a local government entity; and

1531 (ii) used for:

1532 (A) public education;

1533 (B) transacting public business; or

1534 (C) regularly conducting government activities.

1535 (b) "Public building" does not include a building owned by the state or a local  
1536 government entity when the building is used by a person, in whole or in part, for a proprietary  
1537 function.

1538 (97) "Public conveyance" means a conveyance that the public or a portion of the public  
1539 has access to and a right to use for transportation, including an airline, railroad, bus, boat, or  
1540 other public conveyance.

1541 (98) "Reception center" means a business that:

1542 (a) operates facilities that are at least 5,000 square feet; and

1543 (b) has as its primary purpose the leasing of the facilities described in Subsection

1544 (98)(a) to a third party for the third party's event.

1545 (99) "Reception center license" means a license issued in accordance with Chapter 5,  
1546 Retail License Act, and Chapter 6, Part 8, Reception Center License.

1547 (100) (a) "Record" means information that is:

1548 (i) inscribed on a tangible medium; or

1549 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

1550 (b) "Record" includes:

1551 (i) a book;

1552 (ii) a book of account;

1553 (iii) a paper;

1554 (iv) a contract;

1555 (v) an agreement;

1556 (vi) a document; or

1557 (vii) a recording in any medium.

1558 (101) "Residence" means a person's principal place of abode within Utah.

1559 (102) "Resident," in relation to a resort, means the same as that term is defined in

1560 Section [32B-8-102](#).

1561 (103) "Resort" means the same as that term is defined in Section [32B-8-102](#).

1562 (104) "Resort facility" is as defined by the commission by rule.

1563 (105) "Resort spa sublicense" means a resort license sublicense issued in accordance  
1564 with Chapter 8d, Part 2, Resort Spa Sublicense.

1565 (106) "Resort license" means a license issued in accordance with Chapter 5, Retail  
1566 License Act, and Chapter 8, Resort License Act.

1567 (107) "Responsible alcohol service plan" means a written set of policies and  
1568 procedures that outlines measures to prevent employees from:

1569 (a) over-serving alcoholic beverages to customers;

1570 (b) serving alcoholic beverages to customers who are actually, apparently, or obviously  
1571 intoxicated; and

1572 (c) serving alcoholic beverages to minors.

1573 (108) "Restaurant" means a business location:

1574 (a) at which a variety of foods are prepared;

1575 (b) at which complete meals are served; and

- 1576 (c) that is engaged primarily in serving meals.
- 1577 (109) "Restaurant license" means one of the following licenses issued under this title:
- 1578 (a) a full-service restaurant license;
- 1579 (b) a limited-service restaurant license; or
- 1580 (c) a beer-only restaurant license.
- 1581 (110) "Retail license" means one of the following licenses issued under this title:
- 1582 (a) a full-service restaurant license;
- 1583 (b) a master full-service restaurant license;
- 1584 (c) a limited-service restaurant license;
- 1585 (d) a master limited-service restaurant license;
- 1586 (e) a bar establishment license;
- 1587 (f) an airport lounge license;
- 1588 (g) an on-premise banquet license;
- 1589 (h) an on-premise beer license;
- 1590 (i) a reception center license;
- 1591 (j) a beer-only restaurant license;
- 1592 (k) a hospitality amenity license;
- 1593 (l) a resort license;
- 1594 (m) a hotel license; or
- 1595 (n) an arena license.
- 1596 (111) "Room service" means furnishing an alcoholic product to a person in a guest
- 1597 room of a:
- 1598 (a) hotel; or
- 1599 (b) resort facility.
- 1600 (112) (a) "School" means a building in which any part is used for more than three
- 1601 hours each weekday during a school year as a public or private:
- 1602 (i) elementary school;
- 1603 (ii) secondary school; or
- 1604 (iii) kindergarten.
- 1605 (b) "School" does not include:
- 1606 (i) a nursery school;

1607 (ii) a day care center;

1608 (iii) a trade and technical school;

1609 (iv) a preschool; or

1610 (v) a home school.

1611 (113) "Secondary flavoring ingredient" means any spirituous liquor added to a  
1612 beverage for additional flavoring that is different in type, flavor, or brand from the primary  
1613 spirituous liquor in the beverage.

1614 (114) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for  
1615 consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered,  
1616 delivered for value, or by a means or under a pretext is promised or obtained, whether done by  
1617 a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules  
1618 made by the commission.

1619 (115) "Serve" means to place an alcoholic product before an individual.

1620 (116) "Sexually oriented entertainer" means a person who while in a state of  
1621 seminudity appears at or performs:

1622 (a) for the entertainment of one or more patrons;

1623 (b) on the premises of:

1624 (i) a bar licensee; or

1625 (ii) a tavern;

1626 (c) on behalf of or at the request of the licensee described in Subsection (116)(b);

1627 (d) on a contractual or voluntary basis; and

1628 (e) whether or not the person is designated as:

1629 (i) an employee;

1630 (ii) an independent contractor;

1631 (iii) an agent of the licensee; or

1632 (iv) a different type of classification.

1633 (117) "Shared seating area" means the licensed premises of two or more restaurant  
1634 licensees that the restaurant licensees share as an area for alcoholic beverage consumption in  
1635 accordance with Subsection [32B-5-207\(3\)](#).

1636 (118) "Single event permit" means a permit issued in accordance with Chapter 9, Part  
1637 3, Single Event Permit.

1638 (119) "Small brewer" means a brewer who manufactures less than 60,000 barrels of  
1639 beer, heavy beer, and flavored malt beverages per year.

1640 (120) "Small or unincorporated locality" means:

1641 (a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

1642 (b) a town, as classified under Section 10-2-301; or

1643 (c) an unincorporated area in a county of the third, fourth, or fifth class, as classified  
1644 under Section 17-50-501.

1645 (121) "Special use permit" means a permit issued in accordance with Chapter 10,  
1646 Special Use Permit Act.

1647 (122) (a) "Spirituous liquor" means liquor that is distilled.

1648 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by  
1649 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

1650 (123) "Sports center" is as defined by the commission by rule.

1651 (124) (a) "Staff" means an individual who engages in activity governed by this title:

1652 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate  
1653 holder;

1654 (ii) at the request of the business, including a package agent, licensee, permittee, or  
1655 certificate holder; or

1656 (iii) under the authority of the business, including a package agent, licensee, permittee,  
1657 or certificate holder.

1658 (b) "Staff" includes:

1659 (i) an officer;

1660 (ii) a director;

1661 (iii) an employee;

1662 (iv) personnel management;

1663 (v) an agent of the licensee, including a managing agent;

1664 (vi) an operator; or

1665 (vii) a representative.

1666 (125) "State of nudity" means:

1667 (a) the appearance of:

1668 (i) the nipple or areola of a female human breast;

- 1669 (ii) a human genital;
- 1670 (iii) a human pubic area; or
- 1671 (iv) a human anus; or
- 1672 (b) a state of dress that fails to opaquely cover:
  - 1673 (i) the nipple or areola of a female human breast;
  - 1674 (ii) a human genital;
  - 1675 (iii) a human pubic area; or
  - 1676 (iv) a human anus.
- 1677 (126) "State of seminudity" means a state of dress in which opaque clothing covers no
- 1678 more than:
  - 1679 (a) the nipple and areola of the female human breast in a shape and color other than the
  - 1680 natural shape and color of the nipple and areola; and
  - 1681 (b) the human genitals, pubic area, and anus:
    - 1682 (i) with no less than the following at its widest point:
      - 1683 (A) four inches coverage width in the front of the human body; and
      - 1684 (B) five inches coverage width in the back of the human body; and
    - 1685 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.
- 1686 (127) (a) "State store" means a facility for the sale of packaged liquor:
  - 1687 (i) located on premises owned or leased by the state; and
  - 1688 (ii) operated by a state employee.
- 1689 (b) "State store" does not include:
  - 1690 (i) a package agency;
  - 1691 (ii) a licensee; or
  - 1692 (iii) a permittee.
- 1693 (128) (a) "Storage area" means an area on licensed premises where the licensee stores
- 1694 an alcoholic product.
  - 1695 (b) "Store" means to place or maintain in a location an alcoholic product.
- 1696 (129) "Sublicense" means:
  - 1697 (a) any of the following licenses issued as a subordinate license to, and contingent on
  - 1698 the issuance of, a principal license:
    - 1699 (i) a full-service restaurant license;

- 1700 (ii) a limited-service restaurant license;
- 1701 (iii) a bar establishment license;
- 1702 (iv) an on-premise banquet license;
- 1703 (v) an on-premise beer retailer license;
- 1704 (vi) a beer-only restaurant license; or
- 1705 (vii) a hospitality amenity license; or
- 1706 (b) a resort spa sublicense.
- 1707 (130) "Supplier" means a person who sells an alcoholic product to the department.
- 1708 (131) "Tavern" means an on-premise beer retailer who is:
  - 1709 (a) issued a license by the commission in accordance with Chapter 5, Retail License
  - 1710 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and
  - 1711 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
  - 1712 On-Premise Beer Retailer License.
- 1713 (132) "Temporary beer event permit" means a permit issued in accordance with
- 1714 Chapter 9, Part 4, Temporary Beer Event Permit.
- 1715 (133) "Temporary domicile" means the principal place of abode within Utah of a
- 1716 person who does not have a present intention to continue residency within Utah permanently or
- 1717 indefinitely.
- 1718 (134) "Translucent" means a substance that allows light to pass through, but does not
- 1719 allow an object or person to be seen through the substance.
- 1720 (135) "Unsaleable liquor merchandise" means a container that:
  - 1721 (a) is unsaleable because the container is:
    - 1722 (i) unlabeled;
    - 1723 (ii) leaky;
    - 1724 (iii) damaged;
    - 1725 (iv) difficult to open; or
    - 1726 (v) partly filled;
  - 1727 (b) (i) has faded labels or defective caps or corks;
  - 1728 (ii) has contents that are:
    - 1729 (A) cloudy;
    - 1730 (B) spoiled; or



1731 (C) chemically determined to be impure; or  
1732 (iii) contains:  
1733 (A) sediment; or  
1734 (B) a foreign substance; or  
1735 (c) is otherwise considered by the department as unfit for sale.  
1736 (136) (a) "Wine" means an alcoholic product obtained by the fermentation of the  
1737 natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not  
1738 another ingredient is added.  
1739 (b) "Wine" includes:  
1740 (i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec.  
1741 4.10; and  
1742 (ii) hard cider.  
1743 (c) "Wine" is considered liquor for purposes of this title, except as otherwise provided  
1744 in this title.  
1745 (137) "Winery manufacturing license" means a license issued in accordance with  
1746 Chapter 11, Part 3, Winery Manufacturing License.  
1747 Section 20. Section **41-6a-904** is amended to read:  
1748 **41-6a-904. Approaching emergency vehicle -- Necessary signals -- Stationary**  
1749 **emergency vehicle -- Duties of respective operators.**  
1750 (1) Except when otherwise directed by a peace officer, the operator of a vehicle, upon  
1751 the immediate approach of an authorized emergency vehicle using audible or visual signals  
1752 under Section [41-6a-212](#) or [41-6a-1625](#), shall:  
1753 (a) yield the right-of-way and immediately move to a position parallel to, and as close  
1754 as possible to, the right-hand edge or curb of the highway, clear of any intersection; and  
1755 (b) then stop and remain stopped until the authorized emergency vehicle has passed.  
1756 (2) (a) The operator of a vehicle, upon approaching a stationary authorized emergency  
1757 vehicle that is displaying alternately flashing red, red and white, or red and blue lights, shall:  
1758 (i) reduce the speed of the vehicle;  
1759 (ii) provide as much space as practical to the stationary authorized emergency vehicle;  
1760 and  
1761 (iii) if traveling in a lane adjacent to the stationary authorized emergency vehicle and if

1762 practical, with due regard to safety and traffic conditions, make a lane change into a lane not  
1763 adjacent to the authorized emergency vehicle.

1764 (b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a  
1765 stationary authorized emergency vehicle that is displaying alternately flashing red, red and  
1766 white, or red and blue lights, the requirements in Subsection (2)(a) apply.

1767 (ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary  
1768 authorized emergency vehicle that is displaying alternately flashing red, red and white, or red  
1769 and blue lights, shall, if practical, with due regard to safety and traffic conditions, make a lane  
1770 change out of the HOV lane into a lane not adjacent to the authorized emergency vehicle.

1771 (3) (a) The operator of a vehicle, upon approaching a stationary tow truck or highway  
1772 maintenance vehicle that is displaying flashing amber lights, shall:

1773 (i) reduce the speed of the vehicle;

1774 (ii) provide as much space as practical to the stationary tow truck or highway  
1775 maintenance vehicle; and

1776 (iii) if traveling in a lane adjacent to the stationary tow truck or highway maintenance  
1777 vehicle, if practical and with due regard to safety and traffic conditions, make a lane change  
1778 into a lane not adjacent to the tow truck or highway maintenance vehicle.

1779 (b) (i) If the operator of a vehicle is traveling in an HOV lane, upon approaching a  
1780 stationary tow truck or highway maintenance vehicle that is displaying flashing amber lights,  
1781 the requirements in Subsection (3)(a) apply.

1782 (ii) The operator of a vehicle traveling in an HOV lane, upon approaching a stationary  
1783 tow truck or highway maintenance vehicle that is displaying flashing amber lights, shall, if  
1784 practical, with due regard to safety and traffic conditions, make a lane change out of the HOV  
1785 lane into a lane not adjacent to the tow truck or highway maintenance vehicle.

1786 (4) When an authorized emergency vehicle is using audible or visual signals under  
1787 Section [41-6a-212](#) or [41-6a-1625](#), the operator of a vehicle may not:

1788 (a) follow closer than 500 feet behind the authorized emergency vehicle;

1789 (b) pass the authorized emergency vehicle, if the authorized emergency vehicle is  
1790 moving; or

1791 (c) stop the vehicle within 500 feet of a fire apparatus which has stopped in answer to a  
1792 fire alarm.

1793 (5) This section does not relieve the operator of an authorized emergency vehicle, tow  
1794 truck, or highway maintenance vehicle from the duty to drive with regard for the safety of all  
1795 persons using the highway.

1796 (6) (a) (i) In addition to the penalties prescribed under Subsection (8), a person who  
1797 violates this section shall attend a four hour live classroom defensive driving course approved  
1798 by:

1799 (A) the Driver License Division; or

1800 (B) a court in this state.

1801 (ii) Upon completion of the four hour live classroom course under Subsection (6)(a)(i),  
1802 the person shall provide to the Driver License Division a certificate of attendance of the  
1803 classroom course.

1804 (b) The Driver License Division shall suspend a person's driver license for a period of  
1805 90 days if the person:

1806 (i) violates a provision of Subsections (1) through (3); and

1807 (ii) fails to meet the requirements of Subsection (6)(a)(i) within 90 days of sentencing  
1808 for or pleading guilty to a violation of this section.

1809 (c) Notwithstanding the provisions of Subsection (6)(b), the Driver License Division  
1810 shall shorten the 90-day suspension period imposed under Subsection (6)(b) effective  
1811 immediately upon receiving a certificate of attendance of the four hour live classroom course  
1812 required under Subsection (6)(a)(i) if the certificate of attendance is received before the  
1813 completion of the suspension period.

1814 (d) A person whose license is suspended under Subsection (6)(b) and a person whose  
1815 suspension is shortened as described under Subsection (6)(c) shall pay the license reinstatement  
1816 fees under Subsection [53-3-105](#)(26).

1817 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1818 Driver License Division shall make rules to implement the provisions of this part.

1819 (8) A violation of Subsection (1), (2), ~~(3)~~, or (4) is an infraction.

1820 Section 21. Section **54-3-8** is amended to read:

1821 **54-3-8. Preferences forbidden -- Power of commission to determine facts --**

1822 **Applicability of section.**

1823 (1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility

1824 may not:

1825 (a) as to rates, charges, service, facilities or in any other respect, make or grant any  
1826 preference or advantage to any person, or subject any person to any prejudice or disadvantage;  
1827 and

1828 (b) establish or maintain any unreasonable difference as to rates, charges, service or  
1829 facilities, or in any other respect, either as between localities or as between classes of service.

1830 (2) The commission shall have power to determine any question of fact arising under  
1831 this section.

1832 (3) This section does not apply to, and the commission may not enforce this chapter  
1833 concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility,  
1834 or contract of an entity described in Subsection 54-2-1(8)(b)(iii) or (iv), (20), or (22)[(†)](h), or  
1835 if the electricity is consumed by an eligible customer for the eligible customer's own use or the  
1836 use of the eligible customer's tenant or affiliate.

1837 Section 22. Section 58-4a-107 is amended to read:

1838 **58-4a-107. Violation of a program contract -- Adjudicative proceedings --**  
1839 **Penalties.**

1840 (1) The division shall serve an order to show cause on the licensee if the licensee:

1841 (a) violates any term or condition of the program contract or diversion agreement;

1842 (b) makes an intentional, material misrepresentation of fact in the program contract or  
1843 diversion agreement; or

1844 (c) violates any rule or law governing the licensee's profession.

1845 (2) The order to show cause described in Subsection (1) shall:

1846 (a) describe the alleged misconduct;

1847 (b) set a time and place for a hearing before an administrative law judge to determine  
1848 whether the licensee's program contract should be terminated; and

1849 (c) contain all of the information required by a notice of agency action in Subsection  
1850 63G-4-201(2).

1851 (3) Proceedings to terminate a program contract shall comply with the rules for a  
1852 formal proceeding described in Title 63G, Chapter 4, Administrative Procedures Act, except  
1853 the notice of agency action shall be in the form of the order to show cause described in  
1854 Subsection (2).

1855 (4) In accordance with Subsection [63G-4-205\(1\)](#), the division shall make rules for  
1856 discovery adequate to permit all parties to obtain all relevant information necessary to support  
1857 their claims or defenses.

1858 (5) During a proceeding to terminate a program contract, the licensee, the licensee's  
1859 legal representative, and the division shall have access to information contained in the  
1860 division's program file as permitted by law.

1861 (6) The director shall terminate the program contract and place the licensee on  
1862 probation for a period of five years, with probationary terms matching the terms of the program  
1863 contract, if, during the administrative proceedings described in Subsection (3), the  
1864 administrative law judge finds that the licensee has:

1865 (a) violated the program contract;

1866 (b) made an intentional material misrepresentation of fact in the program contract; or

1867 (c) violated a law or rule governing the licensee's profession.

1868 (7) If, during the proceedings described in Subsection (3), the administrative law judge  
1869 finds that the licensee has engaged in especially egregious misconduct, the director may revoke  
1870 the licensee's license.

1871 (8) A licensee who is terminated from the program may have disciplinary action taken  
1872 under Title 58, Chapter 1, Part 4, License Denial, for misconduct committed before, during, or  
1873 after the licensee's participation in the program.

1874 Section 23. Section **58-17b-1004 (Effective 07/01/20)** is amended to read:

1875 **58-17b-1004 (Effective 07/01/20). Authorization to dispense an epinephrine**  
1876 **auto-injector and stock albuterol pursuant to a standing order.**

1877 (1) Notwithstanding any other provision of this chapter, a pharmacist or pharmacy  
1878 intern may dispense an epinephrine auto-injector:

1879 (a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency  
1880 Response for Life-threatening Conditions; or

1881 (ii) to a qualified epinephrine auto-injector entity for use in accordance with Title 26,  
1882 Chapter 41, Emergency Response for Life-threatening Conditions;

1883 (b) pursuant to a standing prescription drug order made in accordance with Section  
1884 [58-17b-1005](#);

1885 (c) without any other prescription drug order from a person licensed to prescribe an

1886 epinephrine auto-injector; and

1887 (d) in accordance with the dispensing guidelines in Section 58-17b-1006.

1888 (2) Notwithstanding any other provision of this chapter, a pharmacist or [pharmacist]  
1889 pharmacy intern may dispense stock albuterol:

1890 (a) (i) to a qualified adult for use in accordance with Title 26, Chapter 41, Emergency  
1891 Response for Life-threatening Conditions; or

1892 (ii) to a qualified stock albuterol entity for use in accordance with Title 26, Chapter 41,  
1893 Emergency Response for Life-threatening Conditions;

1894 (b) pursuant to a standing prescription drug order made in accordance with Section  
1895 58-17b-1005;

1896 (c) without any other prescription drug order from a person licensed to prescribe stock  
1897 albuterol; and

1898 (d) in accordance with the dispensing guidelines in Section 58-17b-1006.

1899 Section 24. Section 58-17b-1005 (Effective 07/01/20) is amended to read:

1900 **58-17b-1005 (Effective 07/01/20). Standing prescription drug orders for**  
1901 **epinephrine auto-injectors and stock albuterol.**

1902 (1) A physician acting in the physician's capacity as an employee of the Department of  
1903 Health or as a medical director of a local health department may issue a standing prescription  
1904 drug order authorizing the dispensing of an epinephrine auto-injector under Section  
1905 58-17b-1004 in accordance with a protocol that:

1906 (a) requires the physician to specify the persons, by professional license number,  
1907 authorized to dispense the epinephrine auto-injector;

1908 (b) requires the physician to review at least annually the dispensing practices of those  
1909 authorized by the physician to dispense the epinephrine auto-injector;

1910 (c) requires those authorized by the physician to dispense the epinephrine auto-injector  
1911 to make and retain a record of each dispensing, including:

1912 (i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom  
1913 the epinephrine auto-injector is dispensed;

1914 (ii) a description of the epinephrine auto-injector dispensed; and

1915 (iii) other relevant information; and

1916 (d) is approved by the division by administrative rule made in accordance with Title

1917 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians  
1918 Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

1919 (2) A physician acting in the physician's capacity as an employee of the Department of  
1920 Health or as a medical director of a local health department may issue a standing prescription  
1921 drug order authorizing the dispensing of [the] stock albuterol under Section 58-17b-1004 in  
1922 accordance with a protocol that:

1923 (a) requires the physician to specify the persons, by professional license number,  
1924 authorized to dispense the stock albuterol;

1925 (b) requires the physician to review at least annually the dispensing practices of those  
1926 authorized by the physician to dispense the stock albuterol;

1927 (c) requires those authorized by the physician to dispense the stock albuterol to make  
1928 and retain a record of each dispensing, including:

1929 (i) the name of the qualified adult or qualified stock albuterol entity to whom the stock  
1930 albuterol is dispensed;

1931 (ii) a description of the stock albuterol dispensed; and

1932 (iii) other relevant information; and

1933 (d) is approved by the division by administrative rule made in accordance with Title  
1934 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians  
1935 Licensing Board created in Section 58-67-201 and the board.

1936 Section 25. Section 58-31b-502 is amended to read:

1937 **58-31b-502. Unprofessional conduct.**

1938 (1) "Unprofessional conduct" includes:

1939 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,  
1940 diagnosis, personal effects, or any other matter about which the licensee is privileged to know  
1941 because of the licensee's or person with a certification's position or practice as a nurse or  
1942 practice as a medication aide certified;

1943 (b) failure to provide nursing service or service as a medication aide certified in a  
1944 manner that demonstrates respect for the patient's human dignity and unique personal character  
1945 and needs without regard to the patient's race, religion, ethnic background, socioeconomic  
1946 status, age, sex, or the nature of the patient's health problem;

1947 (c) engaging in sexual relations with a patient during any:

- 1948 (i) period when a generally recognized professional relationship exists between the  
1949 person licensed or certified under this chapter and the patient; or
- 1950 (ii) extended period when a patient has reasonable cause to believe a professional  
1951 relationship exists between the person licensed or certified under the provisions of this chapter  
1952 and the patient;
- 1953 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using  
1954 information about a patient or exploiting the licensee's or the person with a certification's  
1955 professional relationship between the licensee or holder of a certification under this chapter and  
1956 the patient; or
- 1957 (ii) exploiting the patient by use of the licensee's or person with a certification's  
1958 knowledge of the patient obtained while acting as a nurse or a medication aide certified;
- 1959 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;
- 1960 (f) unauthorized taking or personal use of nursing supplies from an employer;
- 1961 (g) unauthorized taking or personal use of a patient's personal property;
- 1962 (h) unlawful or inappropriate delegation of nursing care;
- 1963 (i) failure to exercise appropriate supervision of persons providing patient care services  
1964 under supervision of the licensed nurse;
- 1965 (j) employing or aiding and abetting the employment of an unqualified or unlicensed  
1966 person to practice as a nurse;
- 1967 (k) failure to file or record any medical report as required by law, impeding or  
1968 obstructing the filing or recording of such a report, or inducing another to fail to file or record  
1969 such a report;
- 1970 (l) breach of a statutory, common law, regulatory, or ethical requirement of  
1971 confidentiality with respect to a person who is a patient, unless ordered by a court;
- 1972 (m) failure to pay a penalty imposed by the division;
- 1973 (n) prescribing a Schedule II controlled substance without complying with the  
1974 requirements in Section 58-31b-803, if applicable;
- 1975 (o) violating Section 58-31b-801;
- 1976 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part  
1977 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if  
1978 applicable; [and]



1979 (q) establishing or operating a pain clinic without a consultation and referral plan for  
1980 Schedule II or III controlled substances; or

1981 (r) falsely making an entry in, or altering, a medical record with the intent to conceal:

1982 (i) a wrongful or negligent act or omission of an individual licensed under this chapter  
1983 or an individual under the direction or control of an individual licensed under this chapter; or

1984 (ii) conduct described in Subsections (1)(a) through (q) or Subsection 58-1-501(1).

1985 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter  
1986 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term  
1987 is defined in Section 26-61a-102, recommending the use of medical cannabis.

1988 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in  
1989 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define  
1990 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

1991 Section 26. Section 58-55-503 is amended to read:

1992 **58-55-503. Penalty for unlawful conduct -- Citations.**

1993 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),  
1994 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26),  
1995 (27), or (28), or Subsection 58-55-504(2), or who fails to comply with a citation issued under  
1996 this section after it is final, is guilty of a class A misdemeanor.

1997 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an  
1998 individual and does not include a sole proprietorship, joint venture, corporation, limited  
1999 liability company, association, or organization of any type.

2000 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be  
2001 awarded and may not accept a contract for the performance of the work.

2002 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an  
2003 infraction unless the violator did so with the intent to deprive the person to whom money is to  
2004 be paid of the money received, in which case the violator is guilty of theft, as classified in  
2005 Section 76-6-412.

2006 (3) Grounds for immediate suspension of a licensee's license by the division and the  
2007 commission include:

2008 (a) the issuance of a citation for violation of Subsection 58-55-308(2), Section  
2009 58-55-501, or Subsection 58-55-504(2); and

2010 (b) the failure by a licensee to make application to, report to, or notify the division with  
2011 respect to any matter for which application, notification, or reporting is required under this  
2012 chapter or rules adopted under this chapter, including:

2013 (i) applying to the division for a new license to engage in a new specialty classification  
2014 or to do business under a new form of organization or business structure;

2015 (ii) filing a current financial statement with the division; and

2016 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

2017 (4) (a) (i) If upon inspection or investigation, the division concludes that a person has  
2018 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),  
2019 (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), Subsection  
2020 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary  
2021 action is appropriate, the director or the director's designee from within the division shall  
2022 promptly issue a citation to the person according to this chapter and any pertinent rules, attempt  
2023 to negotiate a stipulated settlement, or notify the person to appear before an adjudicative  
2024 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2025 (ii) A person who is in violation of the provisions of Subsection 58-55-308(2),  
2026 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24),  
2027 (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a  
2028 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be  
2029 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered  
2030 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),  
2031 (9), (10), (12), (16)(e), (18), [(19);] (20), (21), (24), (25), (26), (27), or (28), or Subsection  
2032 58-55-504(2).

2033 (iii) Except for a cease and desist order, the licensure sanctions cited in Section  
2034 58-55-401 may not be assessed through a citation.

2035 (b) (i) A citation shall be in writing and describe with particularity the nature of the  
2036 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
2037 been violated.

2038 (ii) A citation shall clearly state that the recipient must notify the division in writing  
2039 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
2040 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2041 (iii) A citation shall clearly explain the consequences of failure to timely contest the  
2042 citation or to make payment of any fines assessed by the citation within the time specified in  
2043 the citation.

2044 (c) A citation issued under this section, or a copy of a citation, may be served upon a  
2045 person upon whom a summons may be served:

2046 (i) in accordance with the Utah Rules of Civil Procedure;

2047 (ii) personally or upon the person's agent by a division investigator or by a person  
2048 specially designated by the director; or

2049 (iii) by mail.

2050 (d) (i) If within 20 calendar days after the day on which a citation is served, the person  
2051 to whom the citation was issued fails to request a hearing to contest the citation, the citation  
2052 becomes the final order of the division and is not subject to further agency review.

2053 (ii) The period to contest a citation may be extended by the division for cause.

2054 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2055 the license of a licensee who fails to comply with a citation after the citation becomes final.

2056 (f) The failure of an applicant for licensure to comply with a citation after the citation  
2057 becomes final is a ground for denial of license.

2058 (g) A citation may not be issued under this section after the expiration of one year  
2059 following the date on which the violation that is the subject of the citation is reported to the  
2060 division.

2061 (h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's  
2062 designee shall assess a fine in accordance with the following:

2063 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

2064 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

2065 and

2066 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to  
2067 \$2,000 for each day of continued offense.

2068 (ii) Except as provided in Subsection (5), if a person violates Subsection  
2069 [58-55-501\(16\)\(e\)](#) or (28), the director or the director's designee shall assess a fine in  
2070 accordance with the following:

2071 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

2072 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$4,000;  
2073 and

2074 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to  
2075 \$4,000 for each day of continued offense.

2076 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
2077 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

2078 (A) the division previously issued a final order determining that a person committed a  
2079 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),  
2080 (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection  
2081 58-55-504(2); or

2082 (B) (I) the division initiated an action for a first or second offense;

2083 (II) a final order has not been issued by the division in the action initiated under  
2084 Subsection (4)(i)(i)(B)(I);

2085 (III) the division determines during an investigation that occurred after the initiation of  
2086 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
2087 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),  
2088 (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection  
2089 58-55-504(2); and

2090 (IV) after determining that the person committed a second or subsequent offense under  
2091 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under  
2092 Subsection (4)(i)(i)(B)(I).

2093 (ii) In issuing a final order for a second or subsequent offense under Subsection  
2094 (4)(i)(i), the division shall comply with the requirements of this section.

2095 (j) In addition to any other licensure sanction or fine imposed under this section, the  
2096 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)  
2097 two or more times within a 12-month period, unless, with respect to a violation of Subsection  
2098 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal  
2099 legal working status of the individual who was the subject of the violation using a status  
2100 verification system, as defined in Section 13-47-102.

2101 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)  
2102 for each individual is considered a separate violation.

2103 (5) If a person violates Section 58-55-501, the division may not treat the violation as a  
2104 subsequent violation of a previous violation if the violation occurs five years or more after the  
2105 day on which the person committed the previous violation.

2106 (6) If, after an investigation, the division determines that a person has committed  
2107 multiple of the same type of violation of Section 58-55-501, the division may treat each  
2108 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to  
2109 each violation.

2110 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited  
2111 into the Commerce Service Account created by Section 13-1-2.

2112 (b) A penalty that is not paid may be collected by the director by either referring the  
2113 matter to a collection agency or bringing an action in the district court of the county in which  
2114 the person against whom the penalty is imposed resides or in the county where the office of the  
2115 director is located.

2116 (c) A county attorney or the attorney general of the state shall provide legal assistance  
2117 and advice to the director in an action to collect a penalty.

2118 (d) In an action brought to collect a penalty, the court shall award reasonable attorney  
2119 fees and costs to the prevailing party.

2120 Section 27. Section 58-60-405 is amended to read:

2121 **58-60-405. Qualifications for licensure.**

2122 (1) An applicant for licensure as a clinical mental health counselor shall:

2123 (a) submit an application on a form provided by the division;

2124 (b) pay a fee determined by the department under Section 63J-1-504;

2125 (c) produce certified transcripts evidencing completion of:

2126 (i) a master's or doctorate degree conferred to the applicant in:

2127 (A) clinical mental health counseling, clinical rehabilitation counseling, counselor  
2128 education and supervision from a program accredited by the Council for Accreditation of  
2129 Counseling and Related Educational Programs; or

2130 (B) clinical mental health counseling or an equivalent field from a program affiliated  
2131 with an institution that has accreditation that is recognized by the Council for Higher Education  
2132 Accreditation; and

2133 (ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to

2134 an educational program described in Subsection (1)(d)(i);

2135 (d) have completed a minimum of 4,000 hours of clinical mental health counselor  
2136 training as defined by division rule under Section 58-1-203:

2137 (i) in not less than two years;

2138 (ii) under the supervision of a clinical mental health counselor, psychiatrist,  
2139 psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or  
2140 marriage and family therapist supervisor approved by the division in collaboration with the  
2141 board;

2142 (iii) obtained after completion of the education requirement in Subsection (1)(c); and

2143 (iv) including a minimum of two hours of training in suicide prevention via a course  
2144 that the division designates as approved;

2145 (e) document successful completion of not less than 1,000 hours of supervised training  
2146 in mental health therapy obtained after completion of the education requirement in Subsection  
2147 (1)(c), which training may be included as part of the 4,000 hours of training in Subsection  
2148 (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were  
2149 obtained under the direct supervision of a mental health therapist, as defined by rule; and

2150 (f) pass the examination requirement established by division rule under Section  
2151 58-1-203.

2152 (2) (a) An applicant for licensure as an associate clinical mental health counselor shall  
2153 comply with the provisions of Subsections (1)(a), (b), and (c).

2154 (b) Except as provided under Subsection (2)(c), an individual's licensure as an  
2155 associate clinical mental health counselor is limited to the period of time necessary to complete  
2156 clinical training as described in Subsections (1)(d) and (e) and extends not more than one year  
2157 from the date the minimum requirement for training is completed.

2158 (c) The time period under Subsection (2)(b) may be extended to a maximum of two  
2159 years past the date the minimum supervised clinical training requirement has been completed,  
2160 if the applicant presents satisfactory evidence to the division and the appropriate board that the  
2161 individual is:

2162 (i) making reasonable progress toward passing of the qualifying examination for that  
2163 profession; or

2164 (ii) otherwise on a course reasonably expected to lead to licensure.

2165 (3) (a) Notwithstanding Subsection (1)(d), an applicant [~~satisfied~~] satisfies the  
2166 education requirement described in Subsection (1)(d) if the applicant submits documentation  
2167 verifying:

2168 (i) satisfactory completion of a doctoral or master's degree from an educational  
2169 program in rehabilitation counseling accredited by the Council for Accreditation of Counseling  
2170 and Related Educational Programs;

2171 (ii) satisfactory completion of at least 60 semester credit hours or 90 quarter credit  
2172 hours of coursework related to an educational program described in Subsection (1)(d)(i); and

2173 (iii) that the applicant received a passing score that is valid and in good standing on:

2174 (A) the National Counselor Examination; and

2175 (B) the National Clinical Mental Health Counseling Examination.

2176 (b) During the 2021 interim, the division shall report to the Occupational and  
2177 Professional Licensure Review Committee created in Section [36-23-102](#) on:

2178 (i) the number of applicants who applied for licensure under this Subsection (3);

2179 (ii) the number of applicants who were approved for licensure under this Subsection  
2180 (3);

2181 (iii) any changes to division rule after May 12, 2020, regarding the qualifications for  
2182 licensure under this section; and

2183 (iv) recommendations for legislation or other action that the division considers  
2184 necessary to carry out the provisions of this Subsection (3).

2185 Section 28. Section **59-2-1101 (Effective 01/01/21)** is amended to read:

2186 **59-2-1101 (Effective 01/01/21). Definitions -- Exemption of certain property --**  
2187 **Proportional payments for certain property -- Exception -- County legislative body**  
2188 **authority to adopt rules or ordinances.**

2189 (1) As used in this section:

2190 (a) "Charitable purposes" means:

2191 (i) for property used as a nonprofit hospital or a nursing home, the standards outlined in  
2192 Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah  
2193 1994); and

2194 (ii) for property other than property described in Subsection (1)(a)(i), providing a gift  
2195 to the community.

- 2196 (b) (i) "Educational purposes" means purposes carried on by an educational  
2197 organization that normally:
- 2198 (A) maintains a regular faculty and curriculum; and
  - 2199 (B) has a regularly enrolled body of pupils and students.
- 2200 (ii) "Educational purposes" includes:
- 2201 (A) the physical or mental teaching, training, or conditioning of competitive athletes by  
2202 a national governing body of sport recognized by the United States Olympic Committee that  
2203 qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and
  - 2204 (B) an activity in support of or incidental to the teaching, training, or conditioning  
2205 described in Subsection (1)(b)(ii).
- 2206 (c) "Exclusive use exemption" means a property tax exemption under Subsection  
2207 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the  
2208 following purposes:
- 2209 (i) religious purposes;
  - 2210 (ii) charitable purposes; or
  - 2211 (iii) educational purposes.
- 2212 (d) (i) "Farm machinery and equipment" means tractors, milking equipment and  
2213 storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters,  
2214 choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying  
2215 equipment, including balers and cubers, and any other machinery or equipment used primarily  
2216 for agricultural purposes.
- 2217 (ii) "Farm machinery and equipment" does not include vehicles required to be  
2218 registered with the Motor Vehicle Division or vehicles or other equipment used for business  
2219 purposes other than farming.
- 2220 (e) "Gift to the community" means:
- 2221 (i) the lessening of a government burden; or
  - 2222 (ii) (A) the provision of a significant service to others without immediate expectation  
2223 of material reward;
  - 2224 (B) the use of the property is supported to a material degree by donations and gifts  
2225 including volunteer service;
  - 2226 (C) the recipients of the charitable activities provided on the property are not required



2227 to pay for the assistance received, in whole or in part, except that if in part, to a material  
2228 degree;

2229 (D) the beneficiaries of the charitable activities provided on the property are  
2230 unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable  
2231 objectives of the nonprofit entity that owns the property; and

2232 (E) any commercial activities provided on the property are subordinate or incidental to  
2233 charitable activities provided on the property.

2234 (f) "Government exemption" means a property tax exemption provided under  
2235 Subsection (3)(a)(i), (ii), or (iii).

2236 (g) (i) "Nonprofit entity" means an entity:

2237 (A) that is organized on a nonprofit basis, that dedicates the entity's property to the  
2238 entity's nonprofit purpose, and that makes no dividend or other form of financial benefit  
2239 available to a private interest;

2240 (B) for which, upon dissolution, the entity's assets are distributable only for exempt  
2241 purposes under state law or to the government for a public purpose;

2242 (C) that does not receive income from any source, including gifts, donations, or  
2243 payments from recipients of products or services, that produces a profit to the entity in the  
2244 sense that the income exceeds operating and long-term maintenance expenses; and

2245 (D) for which none of the net earnings or donations made to the entity inure to the  
2246 benefit of private shareholders or other individuals, as the private inurement standard has been  
2247 interpreted under Section 501(c)(3), Internal Revenue Code.

2248 (ii) "Nonprofit entity" includes an entity:

2249 [~~(A) if the entity is:~~]

2250 [~~(H)~~] (A) if the entity is treated as a disregarded entity for federal income tax purposes[;

2251 ~~and (H)]~~ and wholly owned by, and controlled under the direction of, a nonprofit entity; and

2252 (B) for which none of the net earnings and profits of the entity inure to the benefit of  
2253 any person other than a nonprofit entity.

2254 (h) "Tax relief" means an exemption, deferral, or abatement that is authorized by this  
2255 part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

2256 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if  
2257 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

2258 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional  
2259 tax based upon the length of time that the property was not owned by the claimant if:

2260 (i) the claimant is a federal, state, or political subdivision entity described in  
2261 Subsection (3)(a)(i), (ii), or (iii); or

2262 (ii) pursuant to Subsection (3)(a)(iv):

2263 (A) the claimant is a nonprofit entity; and

2264 (B) the property is used exclusively for religious, charitable, or educational purposes.

2265 (c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed  
2266 Forces Exemptions.

2267 (3) (a) The following property is exempt from taxation:

2268 (i) property exempt under the laws of the United States;

2269 (ii) property of:

2270 (A) the state;

2271 (B) school districts; and

2272 (C) public libraries;

2273 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

2274 (A) counties;

2275 (B) cities;

2276 (C) towns;

2277 (D) local districts;

2278 (E) special service districts; and

2279 (F) all other political subdivisions of the state;

2280 (iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity  
2281 used exclusively for one or more of the following purposes:

2282 (A) religious purposes;

2283 (B) charitable purposes; or

2284 (C) educational purposes;

2285 (v) places of burial not held or used for private or corporate benefit;

2286 (vi) farm machinery and equipment;

2287 (vii) a high tunnel, as defined in Section [10-9a-525](#);

2288 (viii) intangible property; and

2289 (ix) the ownership interest of an out-of-state public agency, as defined in Section  
2290 11-13-103:

2291 (A) if that ownership interest is in property providing additional project capacity, as  
2292 defined in Section 11-13-103; and

2293 (B) on which a fee in lieu of ad valorem property tax is payable under Section  
2294 11-13-302.

2295 (b) For purposes of a property tax exemption for property of school districts under  
2296 Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is  
2297 considered to be a school district.

2298 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or  
2299 a government exemption ceases to qualify for the exemption because of a change in the  
2300 ownership of the property:

2301 (a) the new owner of the property shall pay a proportional tax based upon the period of  
2302 time:

2303 (i) beginning on the day that the new owner acquired the property; and

2304 (ii) ending on the last day of the calendar year during which the new owner acquired  
2305 the property; and

2306 (b) the new owner of the property and the person from whom the new owner acquires  
2307 the property shall notify the county assessor, in writing, of the change in ownership of the  
2308 property within 30 days from the day that the new owner acquires the property.

2309 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection  
2310 (4)(a):

2311 (a) is subject to any exclusive use exemption or government exemption that the  
2312 property is entitled to under the new ownership of the property; and

2313 (b) applies only to property that is acquired after December 31, 2005.

2314 (6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

2315 (i) the nonprofit entity that owns the property participates in or intervenes in any  
2316 political campaign on behalf of or in opposition to any candidate for public office, including  
2317 the publishing or distribution of statements; or

2318 (ii) a substantial part of the activities of the nonprofit entity that owns the property  
2319 consists of carrying on propaganda or otherwise attempting to influence legislation, except as

2320 provided under Subsection 501(h), Internal Revenue Code.

2321 (b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a)  
2322 shall be determined using the standards described in Section 501, Internal Revenue Code.

2323 (7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

2324 (a) the property is used for a purpose that is not religious, charitable, or educational;  
2325 and

2326 (b) the use for a purpose that is not religious, charitable, or educational is more than de  
2327 minimis.

2328 (8) A county legislative body may adopt rules or ordinances to:

2329 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation  
2330 provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces  
2331 Exemptions; and

2332 (b) designate one or more persons to perform the functions given the county under this  
2333 part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

2334 (9) If a person is dissatisfied with a tax relief decision made under designated  
2335 decision-making authority as described in Subsection (8)(b), that person may appeal the  
2336 decision to the commission under Section [59-2-1006](#).

2337 Section 29. Section **63G-2-302** is amended to read:

2338 **63G-2-302. Private records.**

2339 (1) The following records are private:

2340 (a) records concerning an individual's eligibility for unemployment insurance benefits,  
2341 social services, welfare benefits, or the determination of benefit levels;

2342 (b) records containing data on individuals describing medical history, diagnosis,  
2343 condition, treatment, evaluation, or similar medical data;

2344 (c) records of publicly funded libraries that when examined alone or with other records  
2345 identify a patron;

2346 (d) records received by or generated by or for:

2347 (i) the Independent Legislative Ethics Commission, except for:

2348 (A) the commission's summary data report that is required under legislative rule; and

2349 (B) any other document that is classified as public under legislative rule; or

2350 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,

- 2351 unless the record is classified as public under legislative rule;
- 2352 (e) records received by, or generated by or for, the Independent Executive Branch  
2353 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review  
2354 of Executive Branch Ethics Complaints;
- 2355 (f) records received or generated for a Senate confirmation committee concerning  
2356 character, professional competence, or physical or mental health of an individual:
- 2357 (i) if, prior to the meeting, the chair of the committee determines release of the records:
- 2358 (A) reasonably could be expected to interfere with the investigation undertaken by the  
2359 committee; or
- 2360 (B) would create a danger of depriving a person of a right to a fair proceeding or  
2361 impartial hearing; and
- 2362 (ii) after the meeting, if the meeting was closed to the public;
- 2363 (g) employment records concerning a current or former employee of, or applicant for  
2364 employment with, a governmental entity that would disclose that individual's home address,  
2365 home telephone number, social security number, insurance coverage, marital status, or payroll  
2366 deductions;
- 2367 (h) records or parts of records under Section [63G-2-303](#) that a current or former  
2368 employee identifies as private according to the requirements of that section;
- 2369 (i) that part of a record indicating a person's social security number or federal employer  
2370 identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#),  
2371 [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);
- 2372 (j) that part of a voter registration record identifying a voter's:
- 2373 (i) driver license or identification card number;
- 2374 (ii) social security number, or last four digits of the social security number;
- 2375 (iii) email address; or
- 2376 (iv) date of birth;
- 2377 (k) a voter registration record that is classified as a private record by the lieutenant  
2378 governor or a county clerk under Subsection [20A-2-101.1\(5\)\(a\)](#), [20A-2-104\(4\)\(h\)](#), or  
2379 [20A-2-204\(4\)\(b\)](#);
- 2380 (l) a voter registration record that is withheld under Subsection [20A-2-104\(7\)](#);
- 2381 (m) a withholding request form described in Subsections [20A-2-104\(7\)](#) and (8) and any

2382 verification submitted in support of the form;

2383 (n) a record that:

2384 (i) contains information about an individual;

2385 (ii) is voluntarily provided by the individual; and

2386 (iii) goes into an electronic database that:

2387 (A) is designated by and administered under the authority of the Chief Information

2388 Officer; and

2389 (B) acts as a repository of information about the individual that can be electronically

2390 retrieved and used to facilitate the individual's online interaction with a state agency;

2391 (o) information provided to the Commissioner of Insurance under:

2392 (i) Subsection 31A-23a-115(3)(a);

2393 (ii) Subsection 31A-23a-302(4); or

2394 (iii) Subsection 31A-26-210(4);

2395 (p) information obtained through a criminal background check under Title 11, Chapter

2396 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

2397 (q) information provided by an offender that is:

2398 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap

2399 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

2400 (ii) not required to be made available to the public under Subsection 77-41-110(4) or

2401 77-43-108(4);

2402 (r) a statement and any supporting documentation filed with the attorney general in

2403 accordance with Section 34-45-107, if the federal law or action supporting the filing involves

2404 homeland security;

2405 (s) electronic toll collection customer account information received or collected under

2406 Section 72-6-118 and customer information described in Section 17B-2a-815 received or

2407 collected by a public transit district, including contact and payment information and customer

2408 travel data;

2409 (t) an email address provided by a military or overseas voter under Section

2410 20A-16-501;

2411 (u) a completed military-overseas ballot that is electronically transmitted under Title

2412 20A, Chapter 16, Uniform Military and Overseas Voters Act;

- 2413 (v) records received by or generated by or for the Political Subdivisions Ethics Review  
2414 Commission established in Section 63A-15-201, except for:
- 2415 (i) the commission's summary data report that is required in Section 63A-15-202; and  
2416 (ii) any other document that is classified as public in accordance with Title 63A,  
2417 Chapter 15, Political Subdivisions Ethics Review Commission;
- 2418 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of  
2419 an incident or threat;
- 2420 (x) a criminal background check or credit history report conducted in accordance with  
2421 Section 63A-3-201;
- 2422 (y) a record described in Subsection 53-5a-104(7);
- 2423 (z) the following portions of a record maintained by a county for the purpose of  
2424 administering property taxes, an individual's:
- 2425 (i) email address;  
2426 (ii) phone number; or  
2427 (iii) personal financial information related to a person's payment method; and  
2428 (aa) a record concerning an individual's eligibility for an exemption, deferral,  
2429 abatement, or relief under:
- 2430 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;  
2431 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;  
2432 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or  
2433 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions.
- 2434 (2) The following records are private if properly classified by a governmental entity:
- 2435 (a) records concerning a current or former employee of, or applicant for employment  
2436 with a governmental entity, including performance evaluations and personal status information  
2437 such as race, religion, or disabilities, but not including records that are public under Subsection  
2438 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);
- 2439 (b) records describing an individual's finances, except that the following are public:
- 2440 (i) records described in Subsection 63G-2-301(2);  
2441 (ii) information provided to the governmental entity for the purpose of complying with  
2442 a financial assurance requirement; or  
2443 (iii) records that must be disclosed in accordance with another statute;

2444 (c) records of independent state agencies if the disclosure of those records would  
2445 conflict with the fiduciary obligations of the agency;

2446 (d) other records containing data on individuals the disclosure of which constitutes a  
2447 clearly unwarranted invasion of personal privacy;

2448 (e) records provided by the United States or by a government entity outside the state  
2449 that are given with the requirement that the records be managed as private records, if the  
2450 providing entity states in writing that the record would not be subject to public disclosure if  
2451 retained by it;

2452 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
2453 created in Section [62A-3-102](#), that may disclose, or lead to the discovery of, the identity of a  
2454 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

2455 (g) audio and video recordings created by a body-worn camera, as defined in Section  
2456 [77-7a-103](#), that record sound or images inside a home or residence except for recordings that:

2457 (i) depict the commission of an alleged crime;

2458 (ii) record any encounter between a law enforcement officer and a person that results in  
2459 death or bodily injury, or includes an instance when an officer fires a weapon;

2460 (iii) record any encounter that is the subject of a complaint or a legal proceeding  
2461 against a law enforcement officer or law enforcement agency;

2462 (iv) contain an officer involved critical incident as defined in Subsection  
2463 [76-2-408\(1\)\(f\)](#); or

2464 (v) have been requested for reclassification as a public record by a subject or  
2465 authorized agent of a subject featured in the recording.

2466 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
2467 records, statements, history, diagnosis, condition, treatment, and evaluation.

2468 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
2469 doctors, or affiliated entities are not private records or controlled records under Section  
2470 [63G-2-304](#) when the records are sought:

2471 (i) in connection with any legal or administrative proceeding in which the patient's  
2472 physical, mental, or emotional condition is an element of any claim or defense; or

2473 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
2474 relies upon the condition as an element of the claim or defense.



2475 (c) Medical records are subject to production in a legal or administrative proceeding  
2476 according to state or federal statutes or rules of procedure and evidence as if the medical  
2477 records were in the possession of a nongovernmental medical care provider.

2478 Section 30. Section **63G-7-701** is amended to read:

2479 **63G-7-701. Payment of claim or judgment against state -- Presentment for**  
2480 **payment.**

2481 (1) Each claim[~~, as defined by Subsection 63G-7-102(1),~~] that is approved by the state  
2482 or any final judgment obtained against the state shall be presented for payment to:

2483 (a) the state risk manager; or

2484 (b) the office, agency, institution, or other instrumentality involved, if payment by that  
2485 instrumentality is otherwise permitted by law.

2486 (2) If payment of the claim is not authorized by law, the judgment or claim shall be  
2487 presented to the board of examiners for action as provided in Section **63G-9-301**.

2488 (3) If a judgment against the state is reduced by the operation of Section **63G-7-604**,  
2489 the claimant may submit the excess claim to the board of examiners.

2490 Section 31. Section **63I-2-215** is amended to read:

2491 **63I-2-215. Repeal dates -- Title 15A.**

2492 [~~Subsection 15A-1-203(13), which addresses mass timber products, is repealed~~  
2493 ~~December 31, 2019.~~]

2494 Section 32. Section **63J-1-602.1 (Effective 10/15/20)** is amended to read:

2495 **63J-1-602.1 (Effective 10/15/20). List of nonlapsing appropriations from accounts**  
2496 **and funds.**

2497 Appropriations made from the following accounts or funds are nonlapsing:

2498 (1) The Utah Intracurricular Student Organization Support for Agricultural Education  
2499 and Leadership Restricted Account created in Section **4-42-102**.

2500 (2) The Native American Repatriation Restricted Account created in Section **9-9-407**.

2501 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in  
2502 Section **9-18-102**.

2503 (4) The National Professional Men's Soccer Team Support of Building Communities  
2504 Restricted Account created in Section **9-19-102**.

2505 (5) Funds collected for directing and administering the C-PACE district created in

- 2506 Section [~~11-42a-302~~] [11-42a-106](#).
- 2507 (6) Money received by the Utah Inland Port Authority, as provided in Section
- 2508 [11-58-105](#).
- 2509 (7) The "Latino Community Support Restricted Account" created in Section [13-1-16](#).
- 2510 (8) The Clean Air Support Restricted Account created in Section [19-1-109](#).
- 2511 (9) The "Support for State-Owned Shooting Ranges Restricted Account" created in
- 2512 Section [23-14-13.5](#).
- 2513 (10) Award money under the State Asset Forfeiture Grant Program, as provided under
- 2514 Section [24-4-117](#).
- 2515 (11) Funds collected from the program fund for local health department expenses
- 2516 incurred in responding to a local health emergency under Section [26-1-38](#).
- 2517 (12) The Children with Cancer Support Restricted Account created in Section
- 2518 [26-21a-304](#).
- 2519 (13) State funds for matching federal funds in the Children's Health Insurance Program
- 2520 as provided in Section [26-40-108](#).
- 2521 (14) The Children with Heart Disease Support Restricted Account created in Section
- 2522 [26-58-102](#).
- 2523 (15) The Nurse Home Visiting Restricted Account created in Section [26-63-601](#).
- 2524 (16) The Technology Development Restricted Account created in Section [31A-3-104](#).
- 2525 (17) The Criminal Background Check Restricted Account created in Section
- 2526 [31A-3-105](#).
- 2527 (18) The Captive Insurance Restricted Account created in Section [31A-3-304](#), except
- 2528 to the extent that Section [31A-3-304](#) makes the money received under that section free revenue.
- 2529 (19) The Title Licensee Enforcement Restricted Account created in Section
- 2530 [31A-23a-415](#).
- 2531 (20) The Health Insurance Actuarial Review Restricted Account created in Section
- 2532 [31A-30-115](#).
- 2533 (21) The Insurance Fraud Investigation Restricted Account created in Section
- 2534 [31A-31-108](#).
- 2535 (22) The Underage Drinking Prevention Media and Education Campaign Restricted
- 2536 Account created in Section [32B-2-306](#).

- 2537 (23) The School Readiness Restricted Account created in Section [35A-15-203](#).
- 2538 (24) Money received by the Utah State Office of Rehabilitation for the sale of certain  
2539 products or services, as provided in Section [35A-13-202](#).
- 2540 (25) The Oil and Gas Administrative Penalties Account created in Section [40-6-11](#).
- 2541 (26) The Oil and Gas Conservation Account created in Section [40-6-14.5](#).
- 2542 (27) The Electronic Payment Fee Restricted Account created by Section [41-1a-121](#) to  
2543 the Motor Vehicle Division.
- 2544 (28) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account  
2545 created by Section [41-3-110](#) to the State Tax Commission.
- 2546 (29) The Utah Law Enforcement Memorial Support Restricted Account created in  
2547 Section [53-1-120](#).
- 2548 (30) The State Disaster Recovery Restricted Account to the Division of Emergency  
2549 Management, as provided in Section [53-2a-603](#).
- 2550 (31) The Department of Public Safety Restricted Account to the Department of Public  
2551 Safety, as provided in Section [53-3-106](#).
- 2552 (32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section  
2553 [53-8-303](#).
- 2554 (33) The DNA Specimen Restricted Account created in Section [53-10-407](#).
- 2555 (34) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 2556 (35) The Technical Colleges Capital Projects Fund created in Section [53B-2a-118](#).
- 2557 (36) The Higher Education Capital Projects Fund created in Section [53B-22-202](#).
- 2558 (37) A certain portion of money collected for administrative costs under the School  
2559 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 2560 (38) The Public Utility Regulatory Restricted Account created in Section [54-5-1.5](#),  
2561 subject to Subsection [54-5-1.5\(4\)\(d\)](#).
- 2562 (39) Funds collected from a surcharge fee to provide certain licensees with access to an  
2563 electronic reference library, as provided in Section [58-3a-105](#).
- 2564 (40) Certain fines collected by the Division of Occupational and Professional Licensing  
2565 for violation of unlawful or unprofessional conduct that are used for education and enforcement  
2566 purposes, as provided in Section [58-17b-505](#).
- 2567 (41) Funds collected from a surcharge fee to provide certain licensees with access to an

- 2568 electronic reference library, as provided in Section [58-22-104](#).
- 2569 (42) Funds collected from a surcharge fee to provide certain licensees with access to an  
2570 electronic reference library, as provided in Section [58-55-106](#).
- 2571 (43) Funds collected from a surcharge fee to provide certain licensees with access to an  
2572 electronic reference library, as provided in Section [58-56-3.5](#).
- 2573 (44) Certain fines collected by the Division of Occupational and Professional Licensing  
2574 for use in education and enforcement of the Security Personnel Licensing Act, as provided in  
2575 Section [58-63-103](#).
- 2576 (45) The Relative Value Study Restricted Account created in Section [59-9-105](#).
- 2577 (46) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
- 2578 (47) Funds paid to the Division of Real Estate for the cost of a criminal background  
2579 check for a mortgage loan license, as provided in Section [61-2c-202](#).
- 2580 (48) Funds paid to the Division of Real Estate for the cost of a criminal background  
2581 check for principal broker, associate broker, and sales agent licenses, as provided in Section  
2582 [61-2f-204](#).
- 2583 (49) Certain funds donated to the Department of Human Services, as provided in  
2584 Section [62A-1-111](#).
- 2585 (50) The National Professional Men's Basketball Team Support of Women and  
2586 Children Issues Restricted Account created in Section [62A-1-202](#).
- 2587 (51) Certain funds donated to the Division of Child and Family Services, as provided  
2588 in Section [62A-4a-110](#).
- 2589 (52) The Choose Life Adoption Support Restricted Account created in Section  
2590 [62A-4a-608](#).
- 2591 (53) Funds collected by the Office of Administrative Rules for publishing, as provided  
2592 in Section [63G-3-402](#).
- 2593 (54) The Immigration Act Restricted Account created in Section [63G-12-103](#).
- 2594 (55) Money received by the military installation development authority, as provided in  
2595 Section [63H-1-504](#).
- 2596 (56) The Computer Aided Dispatch Restricted Account created in Section [63H-7a-303](#).
- 2597 (57) The Unified Statewide 911 Emergency Service Account created in Section  
2598 [63H-7a-304](#).

- 2599 (58) The Utah Statewide Radio System Restricted Account created in Section  
2600 [63H-7a-403](#).
- 2601 (59) The Employability to Careers Program Restricted Account created in Section  
2602 [63J-4-703](#).
- 2603 (60) The Motion Picture Incentive Account created in Section [63N-8-103](#).
- 2604 (61) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,  
2605 as provided under Section [63N-10-301](#).
- 2606 (62) Funds collected by the housing of state probationary inmates or state parole  
2607 inmates, as provided in Subsection [64-13e-104\(2\)](#).
- 2608 (63) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,  
2609 and State Lands, as provided in Section [65A-8-103](#).
- 2610 (64) The Transportation of Veterans to Memorials Support Restricted Account created  
2611 in Section [71-14-102](#).
- 2612 (65) The Amusement Ride Safety Restricted Account, as provided in Section  
2613 [72-16-204](#).
- 2614 (66) Certain funds received by the Office of the State Engineer for well drilling fines or  
2615 bonds, as provided in Section [73-3-25](#).
- 2616 (67) The Water Resources Conservation and Development Fund, as provided in  
2617 Section [73-23-2](#).
- 2618 (68) Funds donated or paid to a juvenile court by private sources, as provided in  
2619 Subsection [78A-6-203\(1\)\(c\)](#).
- 2620 (69) Fees for certificate of admission created under Section [78A-9-102](#).
- 2621 (70) Funds collected for adoption document access as provided in Sections [78B-6-141](#),  
2622 [78B-6-144](#), and [78B-6-144.5](#).
- 2623 (71) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,  
2624 Utah Indigent Defense Commission.
- 2625 (72) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State  
2626 Park, Jordan River State Park, and Green River State Park, as provided under Section  
2627 [79-4-403](#).
- 2628 (73) Certain funds received by the Division of Parks and Recreation from the sale or  
2629 disposal of buffalo, as provided under Section [79-4-1001](#).

- 2630 (74) The Drinking While Pregnant Prevention Media and Education Campaign  
2631 Restricted Account created in Section [32B-2-308](#).
- 2632 Section 33. Section **63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20)** is amended to  
2633 read:
- 2634 **63J-1-602.1 (Effective 07/01/20) (Sup 10/15/20). List of nonlapsing appropriations**  
2635 **from accounts and funds.**
- 2636 Appropriations made from the following accounts or funds are nonlapsing:
- 2637 (1) The Utah Intracurricular Student Organization Support for Agricultural Education  
2638 and Leadership Restricted Account created in Section [4-42-102](#).
- 2639 (2) The Native American Repatriation Restricted Account created in Section [9-9-407](#).
- 2640 (3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in  
2641 Section [9-18-102](#).
- 2642 (4) The National Professional Men's Soccer Team Support of Building Communities  
2643 Restricted Account created in Section [9-19-102](#).
- 2644 (5) Funds collected for directing and administering the C-PACE district created in  
2645 Section [~~11-42a-302~~] [11-42a-106](#).
- 2646 (6) Money received by the Utah Inland Port Authority, as provided in Section  
2647 [11-58-105](#).
- 2648 (7) The "Support for State-Owned Shooting Ranges Restricted Account" created in  
2649 Section [23-14-13.5](#).
- 2650 (8) Award money under the State Asset Forfeiture Grant Program, as provided under  
2651 Section [24-4-117](#).
- 2652 (9) Funds collected from the program fund for local health department expenses  
2653 incurred in responding to a local health emergency under Section [26-1-38](#).
- 2654 (10) The Children with Cancer Support Restricted Account created in Section  
2655 [26-21a-304](#).
- 2656 (11) State funds for matching federal funds in the Children's Health Insurance Program  
2657 as provided in Section [26-40-108](#).
- 2658 (12) The Children with Heart Disease Support Restricted Account created in Section  
2659 [26-58-102](#).
- 2660 (13) The Nurse Home Visiting Restricted Account created in Section [26-63-601](#).

- 2661 (14) The Technology Development Restricted Account created in Section 31A-3-104.
- 2662 (15) The Criminal Background Check Restricted Account created in Section
- 2663 31A-3-105.
- 2664 (16) The Captive Insurance Restricted Account created in Section 31A-3-304, except
- 2665 to the extent that Section 31A-3-304 makes the money received under that section free revenue.
- 2666 (17) The Title Licensee Enforcement Restricted Account created in Section
- 2667 31A-23a-415.
- 2668 (18) The Health Insurance Actuarial Review Restricted Account created in Section
- 2669 31A-30-115.
- 2670 (19) The Insurance Fraud Investigation Restricted Account created in Section
- 2671 31A-31-108.
- 2672 (20) The Underage Drinking Prevention Media and Education Campaign Restricted
- 2673 Account created in Section 32B-2-306.
- 2674 (21) The School Readiness Restricted Account created in Section 35A-15-203.
- 2675 (22) Money received by the Utah State Office of Rehabilitation for the sale of certain
- 2676 products or services, as provided in Section 35A-13-202.
- 2677 (23) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.
- 2678 (24) The Oil and Gas Conservation Account created in Section 40-6-14.5.
- 2679 (25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to
- 2680 the Motor Vehicle Division.
- 2681 (26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
- 2682 created by Section 41-3-110 to the State Tax Commission.
- 2683 (27) The Utah Law Enforcement Memorial Support Restricted Account created in
- 2684 Section 53-1-120.
- 2685 (28) The State Disaster Recovery Restricted Account to the Division of Emergency
- 2686 Management, as provided in Section 53-2a-603.
- 2687 (29) The Department of Public Safety Restricted Account to the Department of Public
- 2688 Safety, as provided in Section 53-3-106.
- 2689 (30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
- 2690 53-8-303.
- 2691 (31) The DNA Specimen Restricted Account created in Section 53-10-407.

- 2692 (32) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 2693 (33) The Technical Colleges Capital Projects Fund created in Section [53B-2a-118](#).
- 2694 (34) The Higher Education Capital Projects Fund created in Section [53B-22-202](#).
- 2695 (35) A certain portion of money collected for administrative costs under the School
- 2696 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 2697 (36) The Public Utility Regulatory Restricted Account created in Section [54-5-1.5](#),
- 2698 subject to Subsection [54-5-1.5\(4\)\(d\)](#).
- 2699 (37) Funds collected from a surcharge fee to provide certain licensees with access to an
- 2700 electronic reference library, as provided in Section [58-3a-105](#).
- 2701 (38) Certain fines collected by the Division of Occupational and Professional Licensing
- 2702 for violation of unlawful or unprofessional conduct that are used for education and enforcement
- 2703 purposes, as provided in Section [58-17b-505](#).
- 2704 (39) Funds collected from a surcharge fee to provide certain licensees with access to an
- 2705 electronic reference library, as provided in Section [58-22-104](#).
- 2706 (40) Funds collected from a surcharge fee to provide certain licensees with access to an
- 2707 electronic reference library, as provided in Section [58-55-106](#).
- 2708 (41) Funds collected from a surcharge fee to provide certain licensees with access to an
- 2709 electronic reference library, as provided in Section [58-56-3.5](#).
- 2710 (42) Certain fines collected by the Division of Occupational and Professional Licensing
- 2711 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
- 2712 Section [58-63-103](#).
- 2713 (43) The Relative Value Study Restricted Account created in Section [59-9-105](#).
- 2714 (44) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
- 2715 (45) Funds paid to the Division of Real Estate for the cost of a criminal background
- 2716 check for a mortgage loan license, as provided in Section [61-2c-202](#).
- 2717 (46) Funds paid to the Division of Real Estate for the cost of a criminal background
- 2718 check for principal broker, associate broker, and sales agent licenses, as provided in Section
- 2719 [61-2f-204](#).
- 2720 (47) Certain funds donated to the Department of Human Services, as provided in
- 2721 Section [62A-1-111](#).
- 2722 (48) The National Professional Men's Basketball Team Support of Women and



- 2723 Children Issues Restricted Account created in Section [62A-1-202](#).
- 2724 (49) Certain funds donated to the Division of Child and Family Services, as provided  
2725 in Section [62A-4a-110](#).
- 2726 (50) The Choose Life Adoption Support Restricted Account created in Section  
2727 [62A-4a-608](#).
- 2728 (51) Funds collected by the Office of Administrative Rules for publishing, as provided  
2729 in Section [63G-3-402](#).
- 2730 (52) The Immigration Act Restricted Account created in Section [63G-12-103](#).
- 2731 (53) Money received by the military installation development authority, as provided in  
2732 Section [63H-1-504](#).
- 2733 (54) The Computer Aided Dispatch Restricted Account created in Section [63H-7a-303](#).
- 2734 (55) The Unified Statewide 911 Emergency Service Account created in Section  
2735 [63H-7a-304](#).
- 2736 (56) The Utah Statewide Radio System Restricted Account created in Section  
2737 [63H-7a-403](#).
- 2738 (57) The Employability to Careers Program Restricted Account created in Section  
2739 [63J-4-703](#).
- 2740 (58) The Motion Picture Incentive Account created in Section [63N-8-103](#).
- 2741 (59) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission,  
2742 as provided under Section [63N-10-301](#).
- 2743 (60) Funds collected by the housing of state probationary inmates or state parole  
2744 inmates, as provided in Subsection [64-13e-104\(2\)](#).
- 2745 (61) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,  
2746 and State Lands, as provided in Section [65A-8-103](#).
- 2747 (62) The Transportation of Veterans to Memorials Support Restricted Account created  
2748 in Section [71-14-102](#).
- 2749 (63) The Amusement Ride Safety Restricted Account, as provided in Section  
2750 [72-16-204](#).
- 2751 (64) Certain funds received by the Office of the State Engineer for well drilling fines or  
2752 bonds, as provided in Section [73-3-25](#).
- 2753 (65) The Water Resources Conservation and Development Fund, as provided in

2754 Section 73-23-2.

2755 (66) Funds donated or paid to a juvenile court by private sources, as provided in

2756 Subsection 78A-6-203(1)(c).

2757 (67) Fees for certificate of admission created under Section 78A-9-102.

2758 (68) Funds collected for adoption document access as provided in Sections 78B-6-141,  
2759 78B-6-144, and 78B-6-144.5.

2760 (69) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,  
2761 Utah Indigent Defense Commission.

2762 (70) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State  
2763 Park, Jordan River State Park, and Green River State Park, as provided under Section  
2764 79-4-403.

2765 (71) Certain funds received by the Division of Parks and Recreation from the sale or  
2766 disposal of buffalo, as provided under Section 79-4-1001.

2767 (72) The Drinking While Pregnant Prevention Media and Education Campaign  
2768 Restricted Account created in Section 32B-2-308.

2769 Section 34. Section 72-10-205.5 is amended to read:

2770 **72-10-205.5. Abandoned aircraft on airport property -- Seizure and disposal.**

2771 (1) (a) As used in this section, "abandoned aircraft" means an aircraft that:

2772 (i) remains in an idle state on airport property for 45 consecutive calendar days;

2773 (ii) is in a wrecked, inoperative, derelict, or partially dismantled condition; and

2774 (iii) is not in the process of actively being repaired.

2775 (b) "Abandoned aircraft" does not include an aircraft:

2776 (i) that has current FAA registration;

2777 (ii) that has current state registration; or

2778 (iii) for which evidence is shown indicating repairs are in process, including:

2779 (A) receipts for parts and labor; or

2780 (B) a statement from a mechanic making the repairs.

2781 (2) An airport operator may take possession and dispose of an abandoned aircraft in  
2782 accordance with Subsections (3) through (5).

2783 (3) Upon determining that an aircraft located on airport property is abandoned, the  
2784 airport operator shall:

2785 (a) send, by registered mail, a notice containing the information described in  
2786 Subsection (4) to the last known address of the last registered owner of the aircraft; and

2787 (b) publish a notice containing the information described in Subsection (4) in a  
2788 newspaper of general circulation in the county where the airport is located if:

2789 (i) the owner or the address of the owner of the aircraft is unknown; or

2790 (ii) the mailed notice is returned to the airport operator without a forwarding address.

2791 (4) The notice described in Subsection (3) shall include:

2792 (a) the name, if known, and the last known address, if any, of the last registered owner  
2793 of the aircraft;

2794 (b) a description of the aircraft, including the identification number, the location of the  
2795 aircraft, and the date the aircraft is determined abandoned;

2796 (c) a statement describing the specific grounds for the determination that the aircraft is  
2797 abandoned;

2798 (d) the amount of any accrued or unpaid airport charges; and

2799 (e) a statement indicating that the airport operator intends to take possession and  
2800 dispose of the aircraft if the owner of the aircraft fails to remove the aircraft from airport  
2801 property, after payment in full of any charges described in Subsection (4)(d), within the later  
2802 of:

2803 (i) 30 days after the day on which the notice is sent in accordance with Subsection  
2804 (3)(a); or

2805 (ii) 30 days after the day on which the notice is published in accordance with  
2806 Subsection (3)(b), if applicable.

2807 (5) If the owner of the abandoned aircraft fails to remove the aircraft from airport  
2808 property, after payment in full of any charges described in Subsection (4)(d), within the time  
2809 specified in Subsection (4)(e):

2810 (a) the abandoned aircraft becomes the property of the airport operator; and

2811 (b) the airport operator may dispose of the abandoned aircraft:

2812 (i) in the manner provided in Title 63A, Chapter 2, Part 4, Surplus Property Service; or

2813 (ii) in accordance with any other lawful method or procedure established by rule or  
2814 ordinance adopted by the airport operator.

2815 (6) If an airport operator complies with the provisions of this section, the airport

2816 operator is immune from liability for the seizure and disposal of an abandoned aircraft in  
2817 accordance with this section.

2818 Section 35. Section **73-10g-202** is amended to read:

2819 **73-10g-202. Agricultural Water Optimization Task Force.**

2820 (1) There is created the Agricultural Water Optimization Task Force, consisting of:

2821 (a) the following voting members:

2822 (i) one individual representing the Department of Agriculture and Food;

2823 (ii) one individual representing the board or division;

2824 (iii) one individual representing the Division of Water Rights;

2825 (iv) one individual representing the Division of Water Quality;

2826 (v) one individual representing the interests of the agriculture industry;

2827 (vi) one individual representing environmental interests;

2828 (vii) one individual representing water conservancy districts; and

2829 (viii) three individuals whose primary source of income comes from the production of  
2830 agricultural commodities; and

2831 (b) one nonvoting member from the higher education community with a background in  
2832 research.

2833 (2) (a) The commissioner of the Department of Agriculture and Food shall appoint the  
2834 members described in Subsections (1)(a)(i), (v), (vii), and (viii).

2835 (b) The executive director of the Department of Natural Resources shall appoint the  
2836 members described in Subsections (1)(a)(ii), (iii), and (vi).

2837 (c) The governor shall appoint the members described in Subsections (1)(a)(iv) and  
2838 (1)(b).

2839 (3) The division shall provide administrative support to the task force.

2840 (4) The task force shall select a chair from among its membership.

2841 (5) Six voting members present constitutes a quorum of the task force. Action by a  
2842 majority of voting members when a quorum is present is an action of the task force.

2843 (6) Service on the task force is voluntary and a member may not receive compensation  
2844 or benefits for the member's service, but may receive per diem and travel expenses in  
2845 accordance with:

2846 (a) Section [63A-3-106](#);

- 2847 (b) Section 63A-3-107; and  
2848 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
2849 63A-3-107.
- 2850 Section 36. Section 73-31-202 is amended to read:  
2851 **73-31-202. Statutory water bank application.**
- 2852 (1) A record holder, other than the United States or an agency of the United States, of a  
2853 perfected water right or a valid diligence claim may request approval for a proposed statutory  
2854 water bank if the place of use and point of diversion for the applicant's water right are  
2855 encompassed within the proposed service area of the proposed statutory water bank and the  
2856 applicant files an application with the board that includes the following:
- 2857 (a) the name of the statutory water bank;
  - 2858 (b) the mailing address for the statutory water bank;
  - 2859 (c) the type of legal entity recognized under Utah law that constitutes the statutory  
2860 water bank;
  - 2861 (d) a proposed service area map for the statutory water bank;
  - 2862 (e) whether the statutory water bank will accept deposits of surface water rights or  
2863 groundwater rights, provided that:
    - 2864 (i) a statutory water bank may not accept deposits of both surface water rights and  
2865 groundwater rights; and
    - 2866 (ii) the applicant's perfected water right or valid diligence claim is of the type accepted  
2867 by the statutory water bank;
  - 2868 (f) a copy of the statutory water bank's governing documents that specify:
    - 2869 (i) the number of members of the governing body, which may not be an even number;
    - 2870 (ii) the qualifications for governing members, including terms and election or  
2871 appointment procedures; and
    - 2872 (iii) the initial governing members' names, telephone numbers, and post office  
2873 addresses;
  - 2874 (g) a confirmation that the applicant satisfies the criteria listed in Subsection (1)(e)(ii);
  - 2875 (h) procedures that describe how the statutory water bank will:
    - 2876 (i) determine and fund the water bank's administrative costs;
    - 2877 (ii) design, facilitate, and conduct transactions between borrowers and depositors for

2878 the use of a banked water right; and  
2879 (iii) accept, reject, and manage banked water rights, including:  
2880 (A) what information a depositor shall provide to inform the statutory water bank, the  
2881 state engineer, or any other distributing entity regarding the feasibility of using the water right  
2882 within the statutory water bank's designated service area;  
2883 (B) how a potential depositor is to work with the statutory water bank to jointly file a  
2884 change application seeking authorization from the state engineer to deposit a water right within  
2885 the statutory water bank;  
2886 (C) conditions for depositing a water right with the statutory water bank;  
2887 (D) how payments to depositors are determined; and  
2888 (E) under what conditions a depositor may use a water right at the heretofore place of  
2889 use pursuant to Subsection 73-31-501(4);  
2890 (iv) accept, review, and approve delivery requests, including:  
2891 (A) deadlines for submitting a delivery request to the statutory water bank;  
2892 (B) a cost or fee associated with submitting a delivery request and how that cost or fee  
2893 is to be applied or used by the statutory water bank;  
2894 (C) what information a borrower is to include on a delivery request to sufficiently  
2895 inform the statutory water bank, state engineer, or another distributing entity whether the  
2896 delivery request is feasible within the statutory water bank's designated service area;  
2897 (D) any notice and comment procedures for notifying other water users of the delivery  
2898 request;  
2899 (E) the criteria the statutory water bank will use to evaluate delivery requests;  
2900 (F) how the statutory water bank will inform water users who have submitted a  
2901 delivery request if the delivery request is approved or denied, the reasons for denial if denied,  
2902 and any applicable conditions if approved;  
2903 (G) appeal or grievance procedures, if any, for a borrower seeking to challenge a denial  
2904 of a delivery request, including identifying who has the burden in an appeal and the standards  
2905 of review;  
2906 (H) how the statutory water bank will determine prices for the use of loaned water  
2907 rights; and  
2908 (I) how the statutory water bank will coordinate with the state engineer to facilitate

2909 distribution of approved delivery requests;

2910 (v) how the statutory water bank will ensure that the aggregate amount of loaned water  
2911 rights during a calendar year does not exceed the total sum of the banked water rights within  
2912 the statutory water bank; and

2913 (vi) how the statutory water bank will resolve complaints regarding the statutory water  
2914 bank's operations;

2915 (i) the process that the statutory water bank will follow if the statutory water bank  
2916 terminates, dissolves, or if the board revokes the statutory water bank's permission to operate  
2917 pursuant to this chapter, including how the statutory water bank will return banked water rights  
2918 to depositors and how the ~~[statute]~~ statutory water bank will return any amounts owing to  
2919 depositors; and

2920 (j) a signed declaration or affidavit from at least two governing members of the  
2921 statutory water bank affirming that:

2922 (i) the information submitted is correct;

2923 (ii) as a condition for permission to operate, the statutory water bank may not  
2924 discriminate between the nature of use, depositors, or borrowers;

2925 (iii) the statutory water bank shall comply with the conditions of an approved changed  
2926 application for a banked water right; and

2927 (iv) the statutory water bank shall report to the state engineer known violations of  
2928 approved change applications.

2929 (2) The board may prepare a form or online application for an applicant to use in  
2930 submitting an application to the board under this part.

2931 Section 37. Section **76-7-305** is amended to read:

2932 **76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory**  
2933 **-- Exceptions.**

2934 (1) A person may not perform an abortion, unless, before performing the abortion, the  
2935 physician who will perform the abortion obtains from the woman on whom the abortion is to  
2936 be performed a voluntary and informed written consent that is consistent with:

2937 (a) Section 8.08 of the American Medical Association's Code of Medical Ethics,  
2938 Current Opinions; and

2939 (b) the provisions of this section.

2940 (2) Except as provided in Subsection (8), consent to an abortion is voluntary and  
2941 informed only if, at least 72 hours before the abortion:

2942 (a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse  
2943 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or  
2944 physician's assistant presents the information module to the pregnant woman;

2945 (b) the pregnant woman views the entire information module and presents evidence to  
2946 the individual described in Subsection (2)(a) that the pregnant woman viewed the entire  
2947 information module;

2948 (c) after receiving the evidence described in Subsection (2)(b), the individual described  
2949 in Subsection (2)(a):

2950 (i) documents that the pregnant woman viewed the entire information module;

2951 (ii) gives the pregnant woman, upon her request, a copy of the documentation  
2952 described in Subsection (2)(c)(i); and

2953 (iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician  
2954 who is to perform the abortion, upon request of that physician or the pregnant woman;

2955 (d) after the pregnant woman views the entire information module, the physician who  
2956 is to perform the abortion, the referring physician, a physician, a registered nurse, nurse  
2957 practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or  
2958 physician's assistant, in a face-to-face consultation in any location in the state, orally informs  
2959 the woman of:

2960 (i) the nature of the proposed abortion procedure;

2961 (ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the  
2962 fetus;

2963 (iii) the risks and alternatives to the abortion procedure or treatment;

2964 (iv) the options and consequences of aborting a medication-induced abortion, if the  
2965 proposed abortion procedure is a medication-induced abortion;

2966 (v) the probable gestational age and a description of the development of the unborn  
2967 child at the time the abortion would be performed;

2968 (vi) the medical risks associated with carrying her child to term;

2969 (vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant  
2970 woman, upon her request; and



2971 (viii) when the result of a prenatal screening or diagnostic test indicates that the unborn  
2972 child has or may have Down syndrome, the Department of Health website containing the  
2973 information described in Section 26-10-14, including the information on the informational  
2974 support sheet; and

2975 (e) after the pregnant woman views the entire information module, a staff member of  
2976 the abortion clinic or hospital provides to the pregnant woman:

2977 (i) on a document that the pregnant woman may take home:

2978 (A) the address for the department's website described in Section 76-7-305.5; and

2979 (B) a statement that the woman may request, from a staff member of the abortion clinic  
2980 or hospital where the woman viewed the information module, a printed copy of the material on  
2981 the department's website;

2982 (ii) a printed copy of the material on the department's website described in Section  
2983 76-7-305.5, if requested by the pregnant woman; and

2984 (iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the  
2985 disposition of the aborted fetus.

2986 (3) Before performing an abortion, the physician who is to perform the abortion shall:

2987 (a) in a face-to-face consultation, provide the information described in Subsection  
2988 (2)(d), unless the attending physician or referring physician is the individual who provided the  
2989 information required under Subsection (2)(d); and

2990 (b) (i) obtain from the pregnant woman a written certification that the information  
2991 required to be provided under Subsection (2) and this Subsection (3) was provided in  
2992 accordance with the requirements of Subsection (2) and this Subsection (3);

2993 (ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

2994 (iii) ensure that:

2995 (A) [~~described in Subsections 26-21-33(3) and (4),~~] the woman has received the  
2996 information described in Subsections 26-21-33(3) and (4); and

2997 (B) if the woman has a preference for the disposition of the aborted fetus, the woman  
2998 has informed the health care facility of the woman's decision regarding the disposition of the  
2999 aborted fetus.

3000 (4) When a serious medical emergency compels the performance of an abortion, the  
3001 physician shall inform the woman prior to the abortion, if possible, of the medical indications

3002 supporting the physician's judgment that an abortion is necessary.

3003 (5) If an ultrasound is performed on a woman before an abortion is performed, the  
3004 individual who performs the ultrasound, or another qualified individual, shall:

3005 (a) inform the woman that the ultrasound images will be simultaneously displayed in a  
3006 manner to permit her to:

3007 (i) view the images, if she chooses to view the images; or

3008 (ii) not view the images, if she chooses not to view the images;

3009 (b) simultaneously display the ultrasound images in order to permit the woman to:

3010 (i) view the images, if she chooses to view the images; or

3011 (ii) not view the images, if she chooses not to view the images;

3012 (c) inform the woman that, if she desires, the person performing the ultrasound, or  
3013 another qualified person shall provide a detailed description of the ultrasound images,

3014 including:

3015 (i) the dimensions of the unborn child;

3016 (ii) the presence of cardiac activity in the unborn child, if present and viewable; and

3017 (iii) the presence of external body parts or internal organs, if present and viewable; and

3018 (d) provide the detailed description described in Subsection (5)(c), if the woman  
3019 requests it.

3020 (6) The information described in Subsections (2), (3), and (5) is not required to be  
3021 provided to a pregnant woman under this section if the abortion is performed for a reason  
3022 described in:

3023 (a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician  
3024 concur, in writing, that the abortion is necessary to avert:

3025 (i) the death of the woman on whom the abortion is performed; or

3026 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
3027 of the woman on whom the abortion is performed; or

3028 (b) Subsection 76-7-302(3)(b)(ii).

3029 (7) In addition to the criminal penalties described in this part, a physician who violates  
3030 the provisions of this section:

3031 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;

3032 and

3033 (b) shall be subject to:

3034 (i) suspension or revocation of the physician's license for the practice of medicine and  
3035 surgery in accordance with Section 58-67-401 or 58-68-401; and

3036 (ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

3037 (8) A physician is not guilty of violating this section for failure to furnish any of the  
3038 information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

3039 (a) the physician can demonstrate by a preponderance of the evidence that the  
3040 physician reasonably believed that furnishing the information would have resulted in a severely  
3041 adverse effect on the physical or mental health of the pregnant woman;

3042 (b) in the physician's professional judgment, the abortion was necessary to avert:

3043 (i) the death of the woman on whom the abortion is performed; or

3044 (ii) a serious risk of substantial and irreversible impairment of a major bodily function  
3045 of the woman on whom the abortion is performed;

3046 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections  
3047 76-5-402 and 76-5-402.1;

3048 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and  
3049 Section 76-7-102; or

3050 (e) at the time of the abortion, the pregnant woman was 14 years of age or younger.

3051 (9) A physician who complies with the provisions of this section and Section  
3052 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain  
3053 informed consent under Section 78B-3-406.

3054 (10) (a) The department shall provide an ultrasound, in accordance with the provisions  
3055 of Subsection (5)(b), at no expense to the pregnant woman.

3056 (b) A local health department shall refer a pregnant woman who requests an ultrasound  
3057 described in Subsection (10)(a) to the department.

3058 (11) A physician is not guilty of violating this section if:

3059 (a) the information described in Subsection (2) is provided less than 72 hours before  
3060 the physician performs the abortion; and

3061 (b) in the physician's professional judgment, the abortion was necessary in a case  
3062 where:

3063 (i) a ruptured membrane, documented by the attending or referring physician, will

3064 cause a serious infection; or

3065 (ii) a serious infection, documented by the attending or referring physician, will cause a  
3066 ruptured membrane.

3067 Section 38. Section **78A-6-602** is amended to read:

3068 **78A-6-602. Referrals -- Nonjudicial adjustments.**

3069 (1) As used in this section, "referral" means a formal referral, a referral to the court  
3070 under Section **53G-8-211** or Subsection **78A-6-601(2)(b)**, or a citation issued to a minor for  
3071 which the court receives notice under Section **78A-6-603**.

3072 (2) (a) A peace officer, or a public official of the state, a county, city, or town charged  
3073 with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral  
3074 with the court within 10 days of a minor's arrest.

3075 (b) If the arrested minor is taken to a detention facility, the peace officer, or public  
3076 official, shall file the formal referral with the court within 24 hours.

3077 (c) A peace officer, public official, school district, or school may only make a referral  
3078 to the court under Section **53G-8-211** for an offense that is subject to referral under Section  
3079 **53G-8-211**.

3080 (3) If the court receives a referral for a minor who is, or appears to be, within the  
3081 court's jurisdiction, the court's probation department shall make a preliminary inquiry in  
3082 accordance with Subsections (5), (6), and (7) to determine whether the minor is eligible to enter  
3083 into a nonjudicial adjustment.

3084 (4) If a minor is referred to the court for multiple offenses arising from a single  
3085 criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the  
3086 court's probation department shall offer the minor one nonjudicial adjustment for all offenses  
3087 arising from the single criminal episode.

3088 (5) (a) The court's probation department may:

3089 (i) conduct a validated risk and needs assessment; and

3090 (ii) request that a prosecuting attorney review a referral in accordance with Subsection  
3091 (11) if:

3092 (A) the results of the validated risk and needs assessment indicate the minor is high  
3093 risk; or

3094 (B) the results of the validated risk and needs assessment indicate the minor is

3095 moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5,  
3096 Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

3097 (b) If a minor violates Section 41-6a-502, the minor shall:

3098 (i) undergo a drug and alcohol screening;

3099 (ii) if found appropriate by the screening, participate in an assessment; and

3100 (iii) if warranted by the screening and assessment, follow the recommendations of the  
3101 assessment.

3102 (6) Except as provided in Subsection (7)(b), the probation department shall request that  
3103 a prosecuting attorney review a referral in accordance with Subsection (11) if:

3104 (a) the referral involves:

3105 (i) a felony offense; or

3106 (ii) a violation of:

3107 (A) Section 41-6a-502, driving under the influence;

3108 (B) Section 76-5-112, reckless endangerment creating a substantial risk of death or  
3109 serious bodily injury;

3110 (C) Section 76-5-206, negligent homicide;

3111 (D) Section 76-9-702.1, sexual battery;

3112 (E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled  
3113 shotgun on or about school premises; or

3114 (F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the  
3115 dangerous weapon is a firearm;

3116 (b) the minor has a current suspended order for custody under Subsection

3117 78A-6-117(5)(a); or

3118 (c) the referral involves an offense alleged to have occurred before an individual was  
3119 12 years old and the offense is a felony violation of:

3120 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

3121 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

3122 (iii) Section 76-5-203, murder or attempted murder;

3123 (iv) Section 76-5-302, aggravated kidnapping;

3124 (v) Section 76-5-405, aggravated sexual assault;

3125 (vi) Section 76-6-103, aggravated arson;

- 3126 (vii) Section 76-6-203, aggravated burglary;
- 3127 (viii) Section 76-6-302, aggravated robbery; or
- 3128 (ix) Section 76-10-508.1, felony discharge of a firearm.
- 3129 (7) (a) Except as provided in Subsections (5) and (6), the court's probation department
- 3130 shall offer a nonjudicial adjustment to a minor if the minor:
- 3131 (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
- 3132 (ii) has no more than two prior adjudications; and
- 3133 (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.
- 3134 (b) If the court receives a referral for an offense that is alleged to have occurred before
- 3135 an individual was 12 years old, the court's probation department shall offer a nonjudicial
- 3136 adjustment to the individual, unless the referral includes an offense described in Subsection
- 3137 (6)(c).
- 3138 (c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment
- 3139 under this Subsection (7), the court's probation department shall treat all offenses arising out of
- 3140 a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial
- 3141 adjustment.
- 3142 (ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under
- 3143 this Subsection (7), the court's probation department shall treat all offenses arising out of a
- 3144 single criminal episode that resulted in one or more prior adjudications as a single adjudication.
- 3145 (d) Except as provided in Subsection (6), the court's probation department may offer a
- 3146 nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection (7)(a).
- 3147 (8) For a nonjudicial adjustment, the court's probation department may require a minor
- 3148 to:
- 3149 (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the
- 3150 terms established under Subsection (10)(c);
- 3151 (b) pay restitution to any victim;
- 3152 (c) complete community or compensatory service;
- 3153 (d) attend counseling or treatment with an appropriate provider;
- 3154 (e) attend ~~[substantive]~~ substance abuse treatment or counseling;
- 3155 (f) comply with specified restrictions on activities or associations;

3156 (g) attend victim-offender mediation if requested by the victim; and

3157 (h) comply with any other reasonable action that is in the interest of the minor, the  
3158 community, or the victim.

3159 (9) (a) Within seven days of receiving a referral that appears to be eligible for a  
3160 nonjudicial adjustment in accordance with Subsection (7), the court's probation department  
3161 shall provide an initial notice to reasonably identifiable and locatable victims of the offense  
3162 contained in the referral.

3163 (b) The victim shall be responsible to provide to the probation department upon  
3164 request:

3165 (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and  
3166 out-of-pocket loss;

3167 (ii) documentation and evidence of compensation or reimbursement from an insurance  
3168 company or an agency of the state, any other state, or the federal government received as a  
3169 direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

3170 (iii) proof of identification, including home and work address and telephone numbers.

3171 (c) The inability, failure, or refusal of the victim to provide all or part of the requested  
3172 information shall result in the probation department determining restitution based on the best  
3173 information available.

3174 (10) (a) The court's probation department may not predicate acceptance of an offer of a  
3175 nonjudicial adjustment on an admission of guilt.

3176 (b) The court's probation department may not deny a minor an offer of a nonjudicial  
3177 adjustment due to a minor's inability to pay a financial penalty under Subsection (8).

3178 (c) The court's probation department shall base a fee, fine, or the restitution for a  
3179 nonjudicial adjustment under Subsection (8) upon the ability of the minor's family to pay as  
3180 determined by a statewide sliding scale developed in accordance with Section [63M-7-208](#) on or  
3181 after July 1, 2018.

3182 (d) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile  
3183 court judge extends the nonjudicial adjustment for an additional 90 days.

3184 (e) (i) Notwithstanding Subsection (10)(d), a juvenile court judge may extend a  
3185 nonjudicial adjustment beyond the 180 days permitted under Subsection (10)(d) for a minor  
3186 who is offered a nonjudicial adjustment under Subsection (7)(b) for a sexual offense under

3187 Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection (11)(b)(ii) for a  
3188 sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed  
3189 before the minor was 12 years old, if the judge determines that:

3190 (A) the nonjudicial adjustment requires specific treatment for the sexual offense;

3191 (B) the treatment cannot be completed within 180 days after the day on which the  
3192 minor entered into the nonjudicial adjustment; and

3193 (C) the treatment is necessary based on a clinical assessment that is developmentally  
3194 appropriate for the minor.

3195 (ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection  
3196 (10)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the  
3197 treatment under this Subsection (10)(e), but the judge may only grant each extension for 90  
3198 days at a time.

3199 (f) If a minor violates Section 76-10-105, the minor may be required to pay a fine or  
3200 penalty and participate in a court-approved tobacco education program with a participation fee.

3201 (11) If a prosecuting attorney is requested to review a referral in accordance with  
3202 Subsection (5) or (6), a minor fails to substantially comply with a condition agreed upon as part  
3203 of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in  
3204 accordance with Subsection (7), the prosecuting attorney shall:

3205 (a) review the case; and

3206 (b) (i) dismiss the case;

3207 (ii) refer the case back to the probation department for a new attempt at nonjudicial  
3208 adjustment; or

3209 (iii) except as provided in Subsections (12)(b), (13), and 78A-6-602.5(2), file a petition  
3210 with the court.

3211 (12) (a) A prosecuting attorney may file a petition only upon reasonable belief that:

3212 (i) the charges are supported by probable cause;

3213 (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable  
3214 doubt; and

3215 (iii) the decision to charge is in the interests of justice.

3216 (b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under  
3217 Subsection (11)(b)(iii) if the minor has substantially complied with the other conditions agreed



3218 upon in accordance with Subsection (8) or conditions imposed through any other court  
3219 diversion program.

3220 (13) A prosecuting attorney may not file a petition against a minor unless:

3221 (a) the prosecuting attorney has statutory authority to file the petition under Section

3222 [78A-6-602.5](#); and

3223 (b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (7);

3224 (ii) the minor declines a nonjudicial adjustment;

3225 (iii) the minor fails to substantially comply with the conditions agreed upon as part of

3226 the nonjudicial adjustment;

3227 (iv) the minor fails to respond to the probation department's inquiry regarding

3228 eligibility for or an offer of a nonjudicial adjustment after being provided with notice for

3229 preliminary inquiry; or

3230 (v) the prosecuting attorney is acting under Subsection (11).

3231 (14) If the prosecuting attorney files a petition in court or a proceeding is commenced

3232 against a minor under Section [78A-6-603](#), the court may refer the case to the probation

3233 department for another offer of nonjudicial adjustment.

3234 Section 39. Section [78A-6-602.5](#) is amended to read:

3235 **[78A-6-602.5. Petition for a delinquency proceeding.](#)**

3236 (1) A prosecuting attorney shall file a petition to commence a proceeding against a

3237 minor for an adjudication of an alleged offense, except as provided in:

3238 (a) Subsection (2);

3239 [~~(b)~~ Subsection (3);]

3240 [~~(c)~~] (b) Section [78A-6-603](#);

3241 [~~(d)~~] (c) Section [~~78A-6-701~~] [78A-6-703.2](#); and

3242 [~~(e)~~] (d) Section [~~78A-6-702~~] [78A-6-703.3](#).

3243 (2) A prosecuting attorney may not file a petition under Subsection (1) against an

3244 individual for an offense alleged to have occurred before the individual was 12 years old,

3245 unless:

3246 (a) the individual is alleged to have committed a felony violation of:

3247 (i) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;

3248 (ii) Section [76-5-202](#), aggravated murder or attempted aggravated murder;

- 3249 (iii) Section 76-5-203, murder or attempted murder;
- 3250 (iv) Section 76-5-302, aggravated kidnapping;
- 3251 (v) Section 76-5-405, aggravated sexual assault;
- 3252 (vi) Section 76-6-103, aggravated arson;
- 3253 (vii) Section 76-6-203, aggravated burglary;
- 3254 (viii) Section 76-6-302, aggravated robbery; or
- 3255 (ix) Section 76-10-508.1, felony discharge of a firearm; or
- 3256 (b) an offer for a nonjudicial adjustment is made under Section 78A-6-602 and the

3257 minor:

- 3258 (i) declines to accept the offer for the nonjudicial adjustment; or
- 3259 (ii) fails to substantially comply with the conditions agreed upon as part of the
- 3260 nonjudicial adjustment.

3261 Section 40. Section 78B-7-118 (Effective 07/01/20) is amended to read:

3262 **78B-7-118 (Effective 07/01/20). Construction with Utah Rules of Civil Procedure.**

3263 To the extent the provisions of this [part] chapter are more specific than the Utah Rules  
3264 of Civil Procedure regarding a civil protective order the provisions of this chapter govern.

3265 Section 41. **Effective dates.**

3266 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members  
3267 elected to each house, this bill takes effect:

3268 (a) on July 1, 2020; or

3269 (b) if later than July 1, 2020, the day following the constitutional time limit of Utah  
3270 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
3271 the date of veto override.

3272 (2) (a) The amendments to Section 63J-1-602.1 (Effective 10/15/20) take effect on  
3273 October 15, 2020.

3274 (b) The amendments to Section 59-2-1101 (Effective 01/01/21) take effect on January  
3275 1, 2021.